9 VAC 5 CHAPTER 140. REGULATION FOR EMISSIONS TRADING.

PART III. NO_x Ozone Season Trading Program.

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Article 21. CAIR NO_x Ozone Season Trading Program General Provisions.

9 VAC 5-140-2010. Purpose.

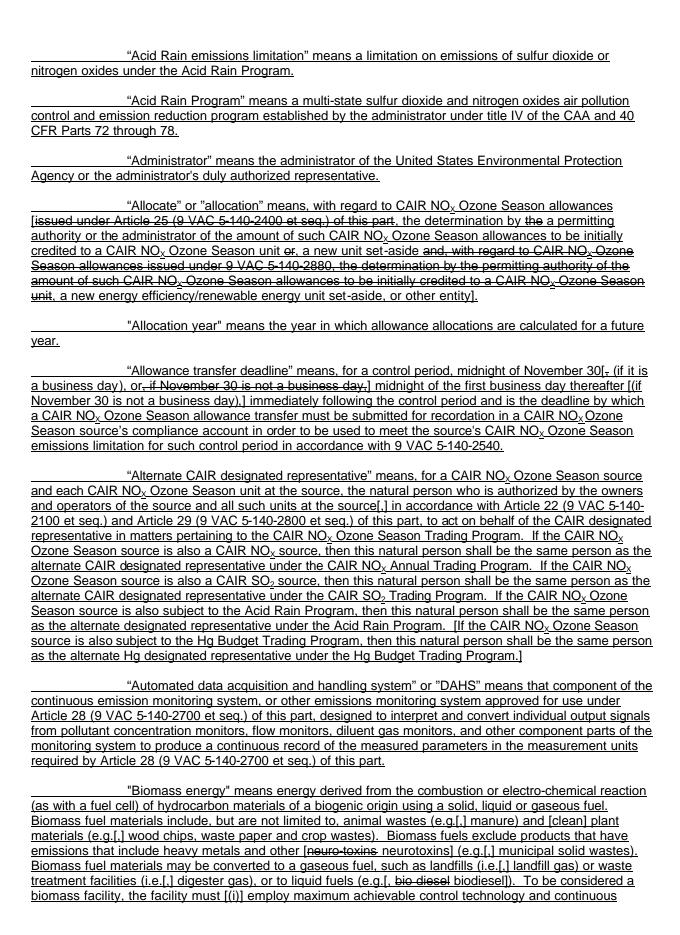
This part establishes general provisions and the designated representative, permitting, allowance, monitoring, and opt-in provisions for the State Clean Air Interstate Rule (CAIR) NO_X Ozone Season Trading Program, under § 110 of the Clean Air Act and 40 CFR 51.123, as a means of mitigating interstate transport of ozone and nitrogen oxides. The board authorizes the administrator to assist the board in implementing the CAIR NO_X Ozone Season Trading Program by carrying out the functions set forth for the administrator in this part.

9 VAC 5-140-2020. Definitions.

A. As used in this part, all words or terms not defined here shall have the meaning given them in 9 VAC 5 Chapter 10 (9 VAC 5-10), unless otherwise required by context.

B. For the purpose of this part and any related use, the words or terms shall have the meaning given them in this paragraph.

"Account number" means the identification number given by the administrator to each CAIR NO_x Ozone Season Allowance Tracking System account.



emission stack monitors for all chemical emissions of concern to human health [and (ii) be listed in one of the following categories: anaerobic digestion systems operating on animal or plant wastes, methane gas, combustion of clean wood, bark or other plant material; or on combustion of fuels derived entirely from processing of clean wood, bark, or other plant or animal material, including processing by gasification, pyrolysis, fermentation, distillation, or densification].

"Boiler" means an enclosed fossil- or other-fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.

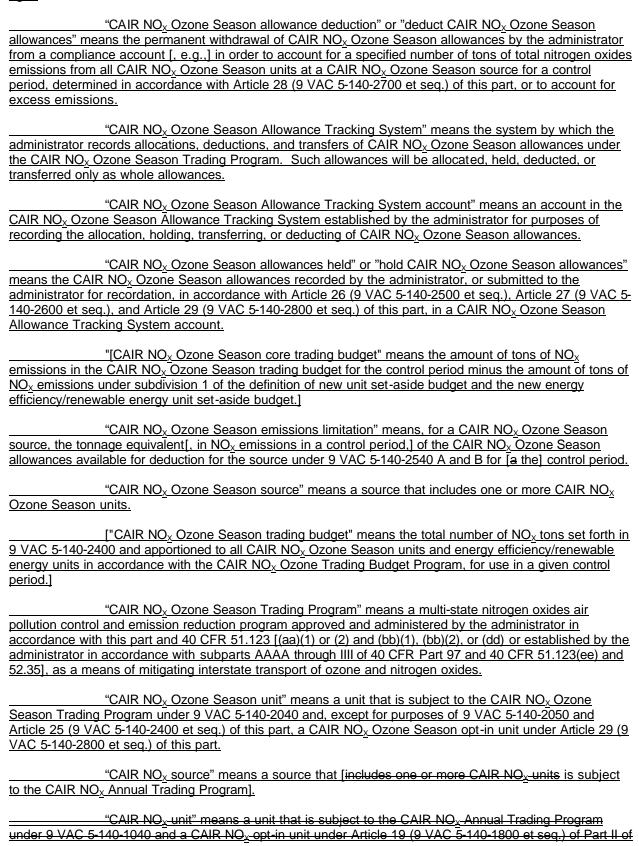
"Bottoming-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful thermal energy and at least some of the reject heat from the useful thermal energy application or process is then used for electricity production.

"CAIR authorized account representative" means, with regard to a general account, a responsible natural person who is authorized, in accordance with Article 22 (9 VAC 5-140-2100 et seq.)[, Article 26 (9 VAC 5-140-2500 et seq.)] and Article 29 (9 VAC 5-140-2800 et seq.) of this part, to transfer and otherwise dispose of CAIR NO_X Ozone Season allowances held in the general account and, with regard to a compliance account, the CAIR designated representative of the source.

"CAIR designated representative" means, for a CAIR NO_x Ozone Season source and each CAIR NO_x Ozone Season unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with Article 22 (9 VAC 5-140-2100 et seq.) and Article 29 (9 VAC 5-140-2800 et seq.) of this part, to represent and legally bind each owner and operator in matters pertaining to the CAIR NO_x Ozone Season Trading Program. If the CAIR NO_x Ozone Season source is also a CAIR NO_x source, then this natural person shall be the same person as the CAIR designated representative under the CAIR NO_x Annual Trading Program. If the CAIR NO_x Ozone Season source is also a CAIR SO₂ source, then this natural person shall be the same person as the CAIR designated representative under the CAIR SO₂ Trading Program. If the CAIR NO_x Ozone Season source is also subject to the Acid Rain Program, then this natural person shall be the same person as the designated representative under the Acid Rain Program. [If the CAIR NO_x Ozone Season source is also subject to the Hg Budget Trading Program, then this natural person shall be the same person as the Hg designated representative under the Hg Budget Trading Program.]

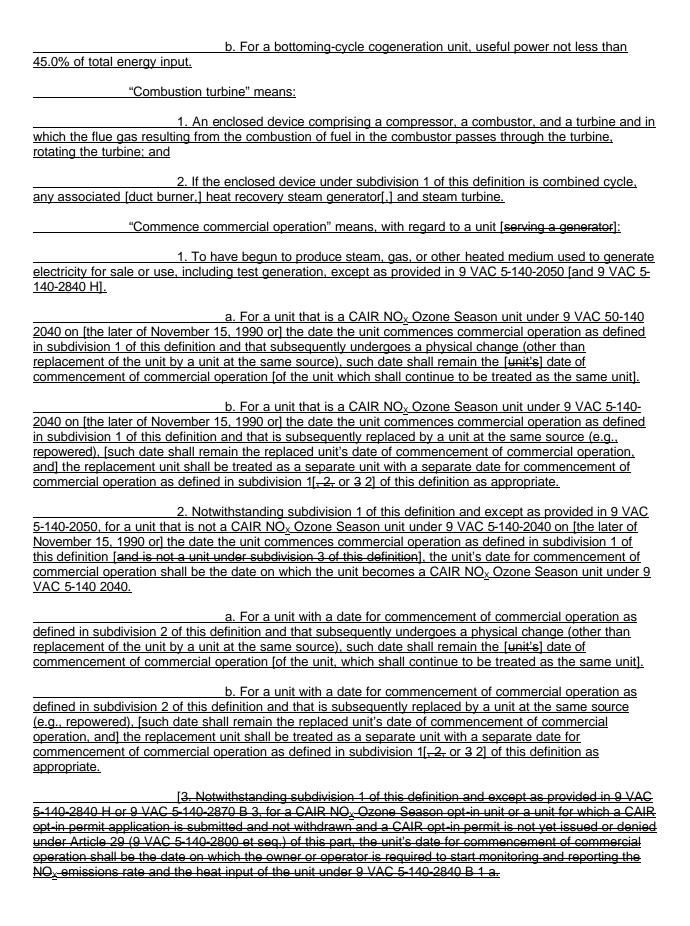
"CAIR NO $_{\underline{x}}$ Annual Trading Program" means a multi-state nitrogen oxides air pollution control and emission reduction program approved and administered by the administrator in accordance with Part II [(9 VAC 5-140-1010 et seq.)] of this chapter and 40 CFR 51.123 [(o)(1) or (2) or established by the administrator in accordance with subparts AA through II of 40 CFR Part 97 and 40 CFR 51.123(p) and 52.35], as a means of mitigating interstate transport of fine particulates and nitrogen oxides.

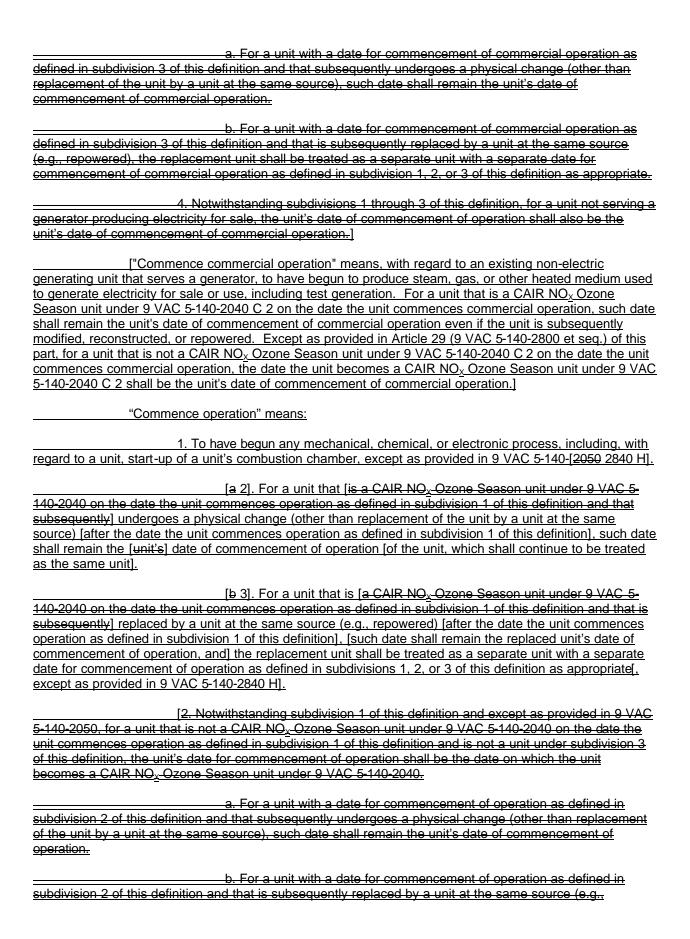
"CAIR NO_x Ozone Season allowance" means a limited authorization issued by [the a] permitting authority or the administrator under Article 25 (9 VAC 5-140-2400 et seq.) of this part, [provisions of an implementation plan that are approved under 40 CFR 51.123(aa)(1) or (2) and (bb)(1), (bb)(2), (dd), or (ee), or under subpart EEEE of 40 CFR Part 97 or 40 CFR 97.388,] to emit one ton of nitrogen oxides during a control period of the specified calendar year for which the authorization is allocated or of any calendar year thereafter under the CAIR NO_x Ozone Season Trading Program or a limited authorization issued by [the a] permitting authority for a control period during 2003 through 2008 under the NO_x Budget Trading Program under Part I [(9 VAC 5-140-10 et seg.)] of this chapter to emit one ton of nitrogen oxides during a control period, provided that the provision in 40 CFR 51.121(b)(2)[(i) (ii)](E) shall not be used in applying this definition [and the limited authorization shall not have been used to meet the allowance-holding requirement under the NO_x Budget Trading Program]. An authorization to emit nitrogen oxides that is not issued under [Article 25 (9 VAC 5-140-2400 et seq.) of this part,] provisions of [a state an] implementation plan [that meet the requirements of 40 CFR 51.121(p) or approved under 40 CFR 51.123(aa)(1) or (2) [and (bb)(1), (bb)(2), (dd), or (ee) or subpart EEEE of 40 CFR Part 97 or 40 CFR 97.388 or under the NO_x Budget Trading Program as described in the prior sentence] shall not be a CAIR NO_x Ozone Season allowance. No provision of the CAIR NO_x Ozone Season Program, the CAIR permit application, the CAIR permit, or an exemption under 9 VAC 5-140-2050 and no provision of law shall be construed to limit the authority of the United States or the board to terminate or limit such authorization, which does not constitute a property



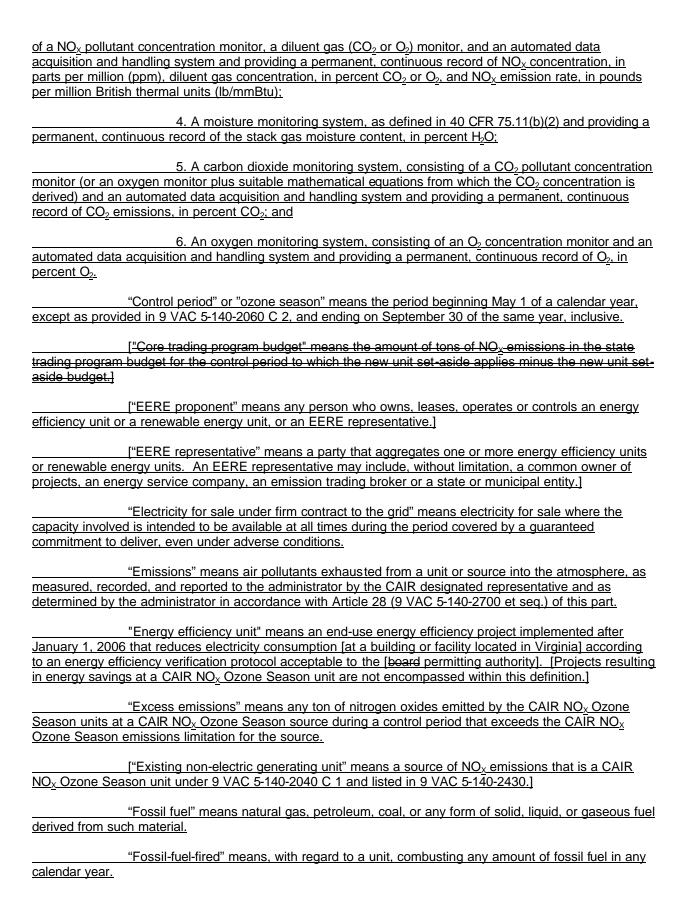
this chapter]. "CAIR permit" means the [terms and conditions in a] title V operating permit or state operating permit, issued by the permitting authority under Article 23 (9 VAC 5-140-2200 et seq.) of this part, including any permit revisions, specifying the CAIR NO_x Ozone Season Trading Program requirements applicable to a CAIR NO_x Ozone Season source, to each CAIR NO_x Ozone Season unit at the source, and to the owners and operators and the CAIR designated representative of the source and each such unit. "CAIR SO₂ source" means a source that [includes one or more CAIR SO₂ units is subject to the CAIR SO₂ Trading Programl. "CAIR SO2 Trading Program" means a multi-state sulfur dioxide air pollution control and emission reduction program approved and administered by the administrator in accordance with Part IV [(9 VAC 5-140-3010 et seq.)] of this chapter and 40 CFR 51.124 [(o)(1) or (2) or established by the administrator in accordance with subparts AAA through III of 40 CFR Part 97 and 40 CFR 51.124(r) and 52.36], as a means of mitigating interstate transport of fine particulates and sulfur dioxide. ["CAIR SO2 unit" means a unit that is subject to the CAIR SO2 Trading Program under 9 VAC 5-140-3040 and a CAIR SO₂ opt-in unit under Article 39 (9 VAC 5-140-3800 et seq.) of Part IV of this chapter.] "Clean Air Act" or "CAA" means the Clean Air Act, 42 U.S.C. 7401, et seg. "Coal" means any solid fuel classified as anthracite, bituminous, subbituminous, or lignite. "Coal-derived fuel" means any fuel (whether in a solid, liquid, or gaseous state) produced by the mechanical, thermal, or chemical processing of coal. "Coal-fired" means: 1. Except for purposes of Article 25 (9 VAC 5-140-2400 et seq.) of this part, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during any year; or 2. For purposes of Article 25 (9 VAC 5-140-2400 et seq.) of this part, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during a specified year. "Cogeneration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine: 1. Having equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy; and 2. Producing during the 12-month period starting on the date the unit first produces electricity and during any calendar year after [the calendar year in] which the unit first produces electricity a. For a topping-cycle cogeneration unit, (1) Useful thermal energy not less than 5.0% of total energy output; and (2) Useful power that, when added to one-half of useful thermal energy produced, is not less then 42.5% of total energy input, if useful thermal energy produced is 15.0% or more of total energy output, or not less than 45.0% of total energy input, if useful thermal energy produced

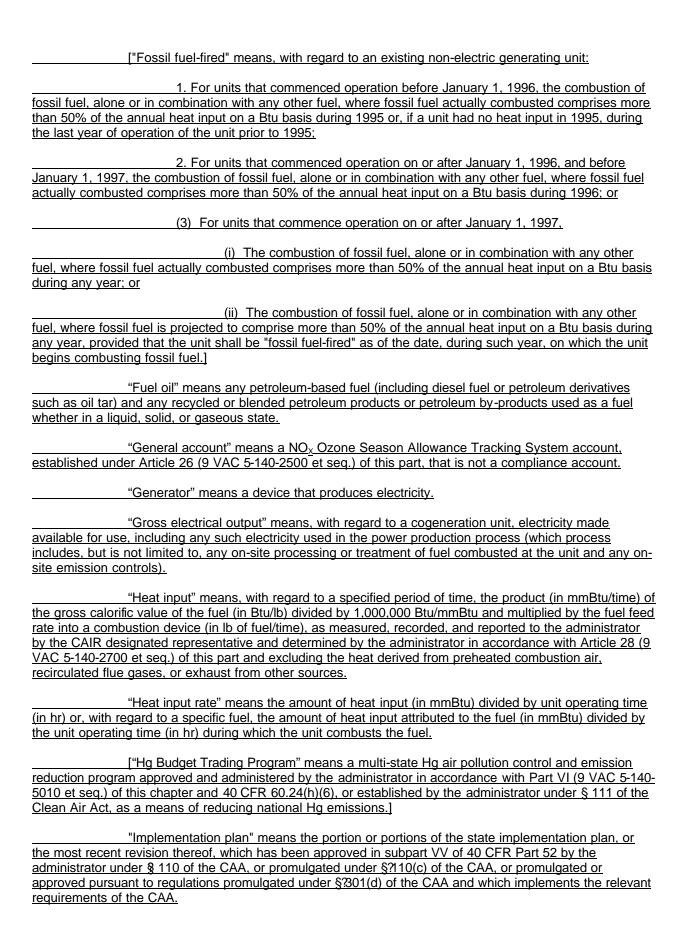
is less than 15.0% of total energy output.

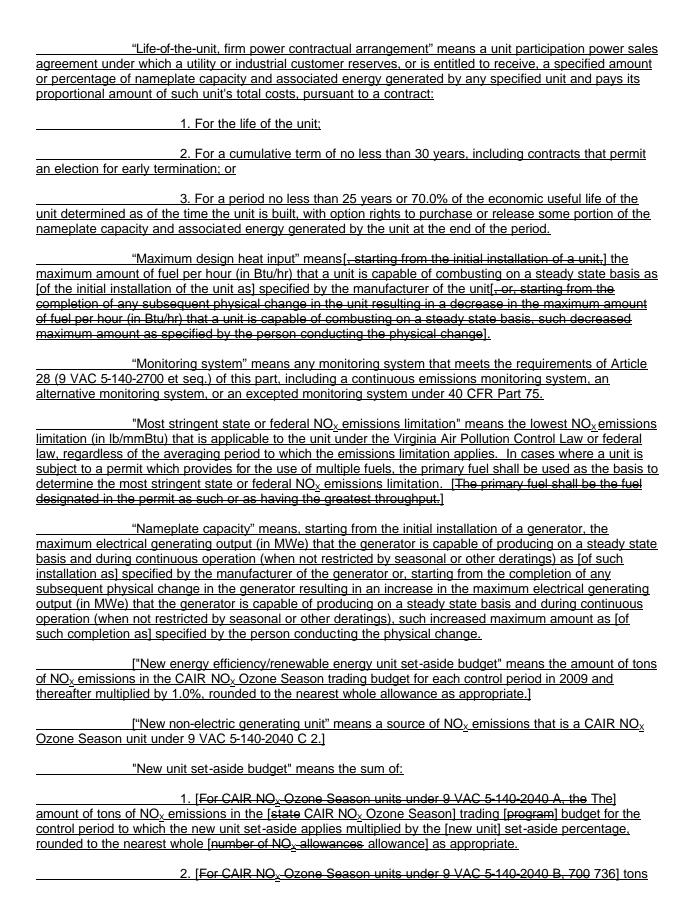


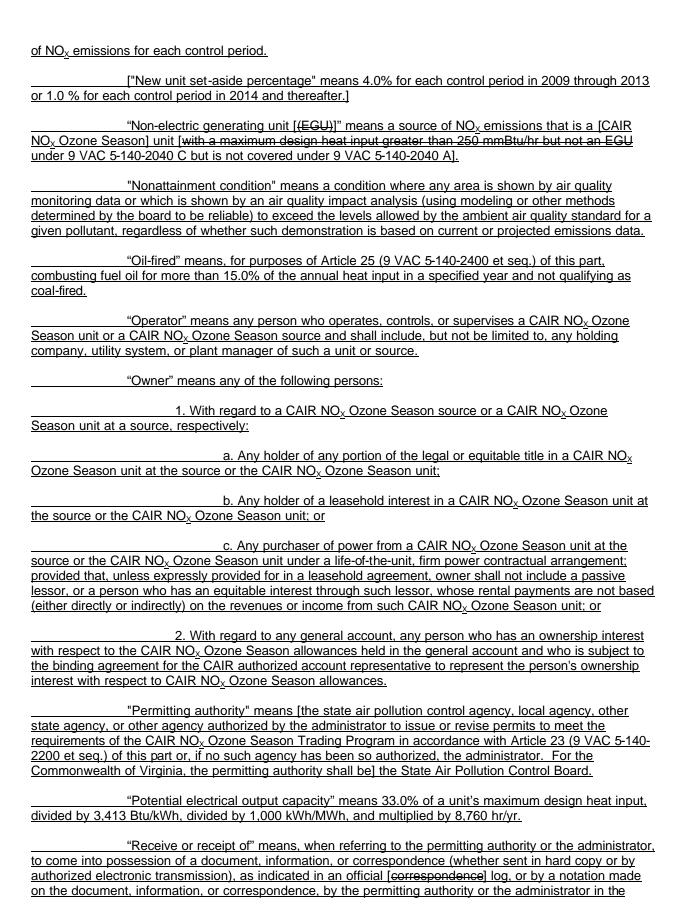


repowered), the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in subdivision 1, 2, or 3 of this definition as appropriate. 3. Notwithstanding subdivision 1 of this definition and except as provided in 9 VAC 5-140-2840 H or 9 VAC 5-140-2870 B 3, for a CAIR NO_x Ozone Season opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Article 29 (9 VAC 5-140-2800 et seq.) of this part, the unit's date for commencement of operation shall be the date on which the owner or operator is required to start monitoring and reporting the NO_V emissions rate and the heat input of the unit under 9 VAC 5-140-2840 B 1 a. a. For a unit with a date for commencement of operation as defined in subdivision 3 of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the unit's date of commencement of operation. b. For a unit with a date for commencement of operation as defined in subdivision 3 of this definition and that is subsequently replaced by a unit at the source (e.g., repowered), the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in subdivision 1, 2, or 3 of this definition as appropriate. ["Commence operation" means, with regard to an existing non-electric generating unit, to have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber. For a unit that is a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040 C 2 on the date of commencement of operation, such date shall remain the unit's date of commencement of operation even if the unit is subsequently modified, reconstructed, or repowered. Except as provided in Article 29 (9 VAC 5-140-2800 et seq.) of this part, for a unit that is not a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040 C 2 on the date of commencement of operation, the date the unit becomes a CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040 C 2 shall be the unit's date of commencement of operation.] "Common stack" means a single flue through which emissions from 2 or more units are exhausted. "Compliance account" means a CAIR NO_x Ozone Season Allowance Tracking System account, established by the administrator for a CAIR NOx Ozone Season source under Article 26 (9 VAC 5-140-2500 et seq.) or Article 29 (9 VAC 5-140-2800 et seq.) of this part, in which any CAIR NO_x Ozone Season allowance allocations for the CAIR NO_x Ozone Season units at the source are initially recorded and in which are held any CAIR NO_x Ozone Season allowances available for use for a control period in order to meet the source's CAIR NO_x Ozone Season emissions limitation in accordance with 9 VAC 5-140-2540. "Continuous emission monitoring system" or "CEMS" means the equipment required under Article 28 (9 VAC 5-140-2700 et seq.) of this part to sample, analyze, measure, and provide, by means of readings recorded at least once every 15 minutes (using an automated data acquisition and handling system (DAHS)), a permanent record of nitrogen oxides emissions, stack gas volumetric flow rate, stack gas moisture content, and oxygen or carbon dioxide concentration (as applicable), in a manner consistent with 40 CFR Part 75. The following systems are the principal types of continuous emission monitoring systems required under Article 28 (9 VAC 5-140-2700 et seq.) of this part: 1. A flow monitoring system, consisting of a stack flow rate monitor and an automated data acquisition and handling system and providing a permanent, continuous record of stack gas volumetric flow rate, in standard cubic feet per hour (scfh); 2. A nitrogen oxides concentration monitoring system, consisting of a NO_x pollutant concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of NO_x emissions, in parts per million (ppm); 3. A nitrogen oxides emission rate (or NO_x-diluent) monitoring system, consisting



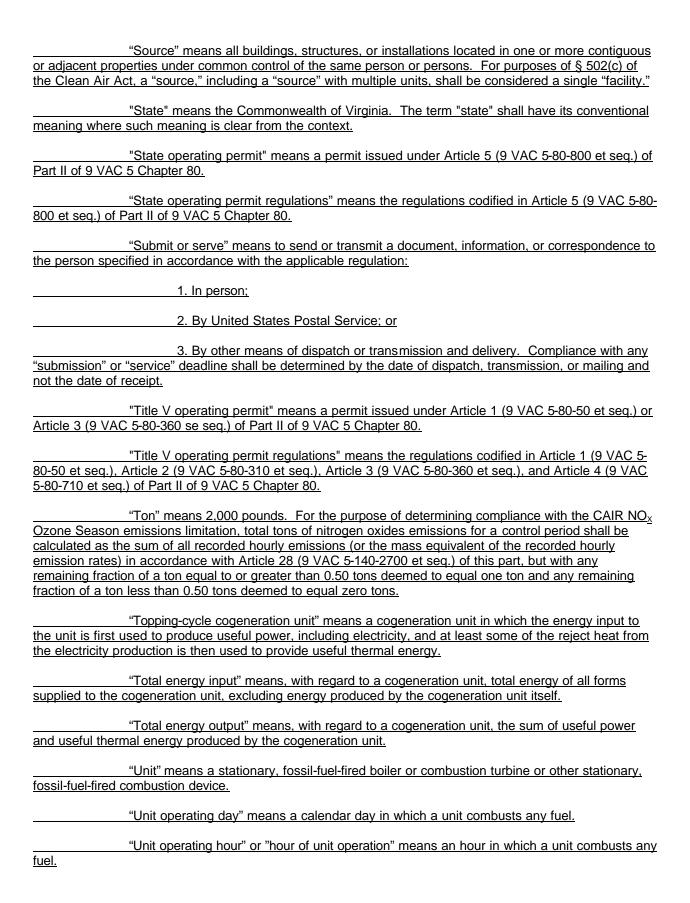


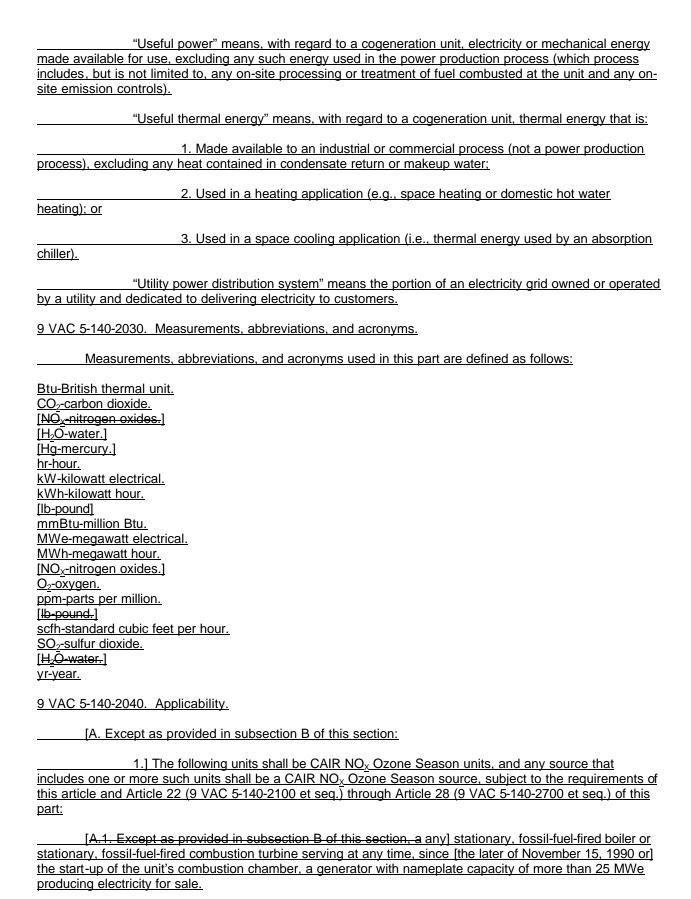


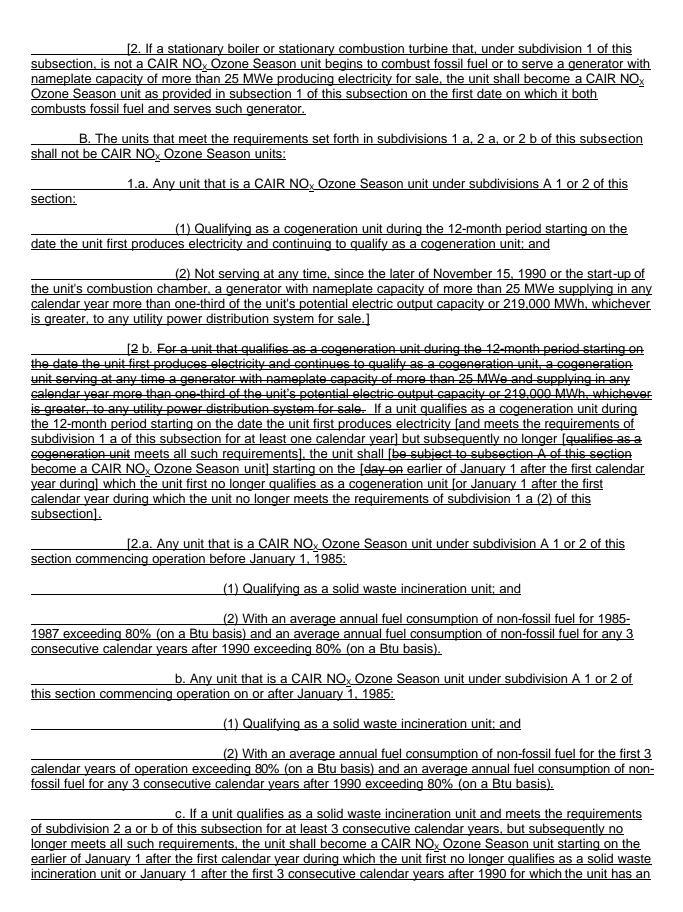


regular course of business. "Recordation," "record," or "recorded" means, with regard to CAIR NO_X Ozone Season allowances, the movement of CAIR NO_x Ozone Season allowances by the administrator into or between CAIR NO_x Ozone Season Allowance Tracking System accounts, for purposes of allocation, transfer, or deduction. "Reference method" means any direct test method of sampling and analyzing for an air pollutant as specified in 40 CFR 75.22. "Renewable energy unit" means [a non-emitting an] electric generator that began commercial operation after January 1, 2006 and is powered by (i) wind, solar, ocean thermal, wave, [tidal,] geothermal, or biomass energy, or (ii) [landfill gas fuel cells powered by hydrogen generated by a renewable energy source]. [Renewable energy does not include energy derived from: (i) material that has been treated or painted or derived from demolition or construction material; (ii) municipal, industrial or other multiple source solid waste; and (iii) co-firing of biomass with fossil fuels or solid waste.] ["Replacement," "replace," or "replaced" means, with regard to a unit, the demolishing of a unit, or the permanent shutdown and permanent disabling of a unit, and the construction of another unit (the replacement unit) to be used instead of the demolished or shutdown unit (the replaced unit).] "Repowered" means, with regard to a unit, replacement of a coal-fired boiler with one of the following coal-fired technologies at the same source as the coal-fired boiler: 1. Atmospheric or pressurized fluidized bed combustion; 2. Integrated gasification combined cycle: 3. Magnetohydrodynamics; 4. Direct and indirect coal-fired turbines: 5. Integrated gasification fuel cells; or 6. As determined by the administrator in consultation with the Secretary of Energy, a derivative of one or more of the technologies under subdivisions 1 through 5 of this definition and any other coal-fired technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of January 1, 2005. "Sequential use of energy" means: 1. For a topping-cycle cogeneration unit, the use of reject heat from electricity production in a useful thermal energy application or process; or 2. For a bottoming-cycle cogeneration unit, the use of reject heat from useful thermal energy application or process in electricity production. "Serial number" means, for a CAIR NO_x Ozone Season allowance, the unique identification number assigned to each CAIR NO_x Ozone Season allowance by the administrator. ["Set-aside percentage" means 5.0% for each control period in 2009 through 2013 or 2.0% for each control period in 2014 and thereafter.] ["Solid waste incineration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine that is a "solid waste incineration unit" as defined in § 129(g)(1) of the

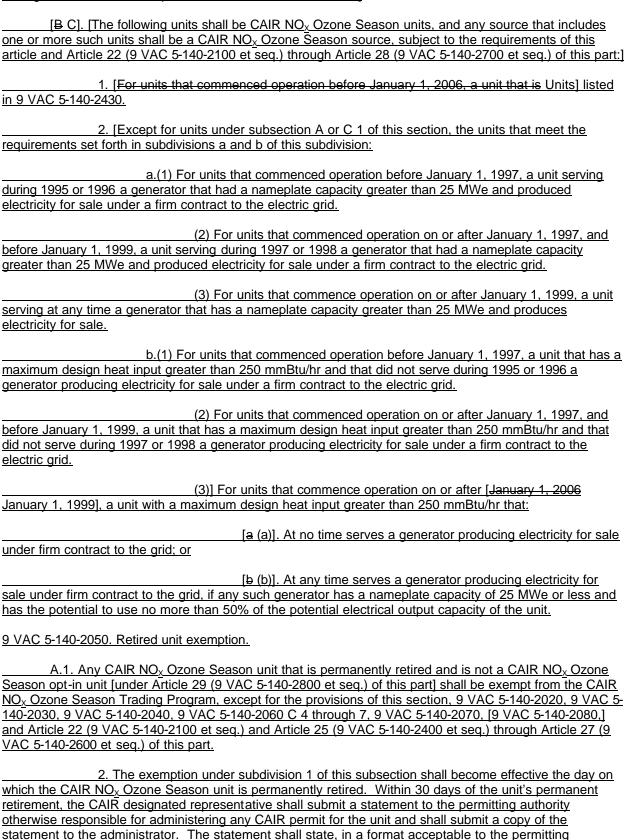
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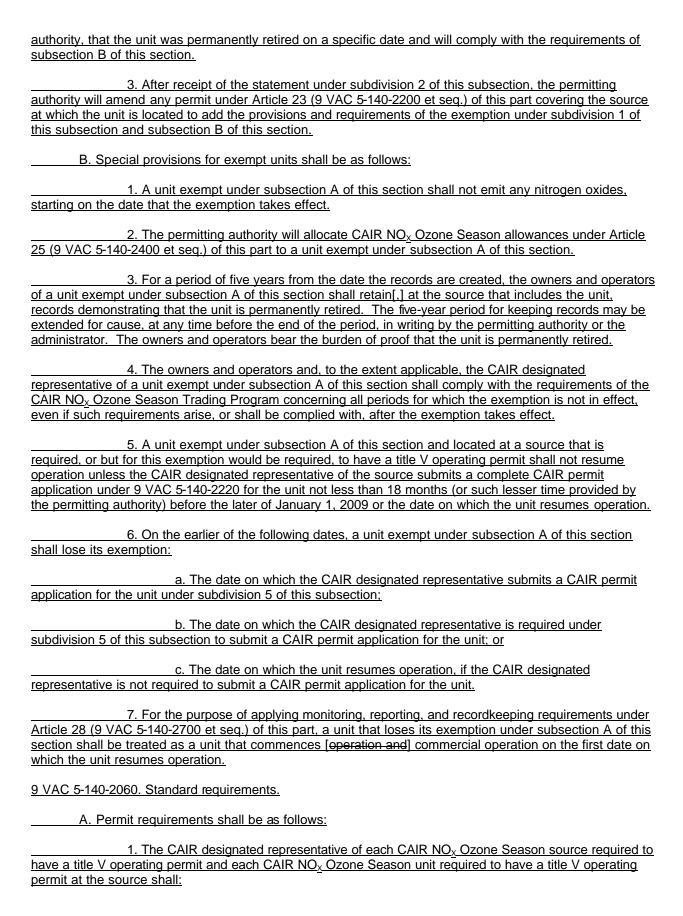


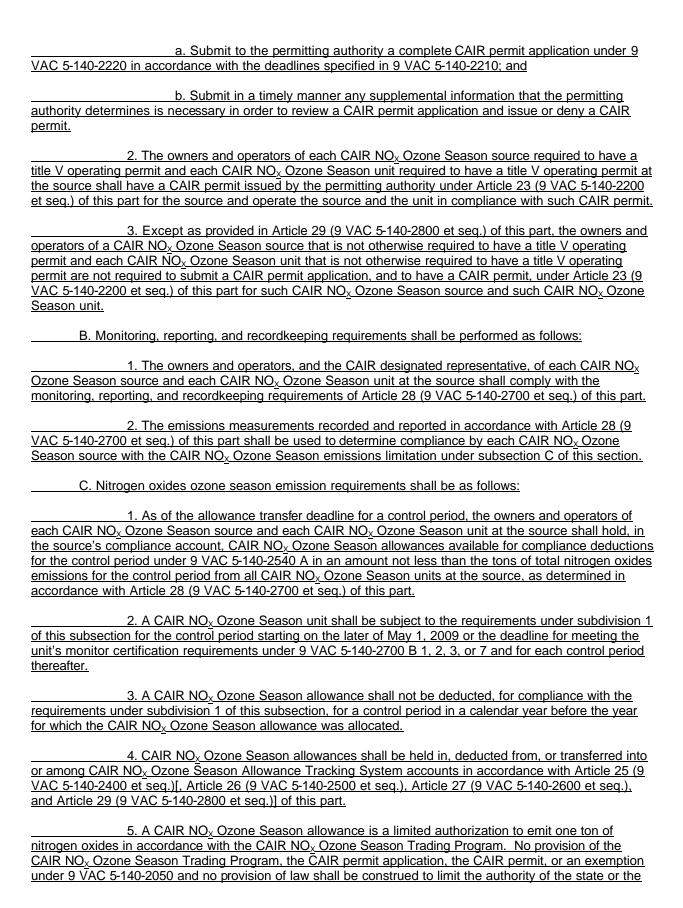


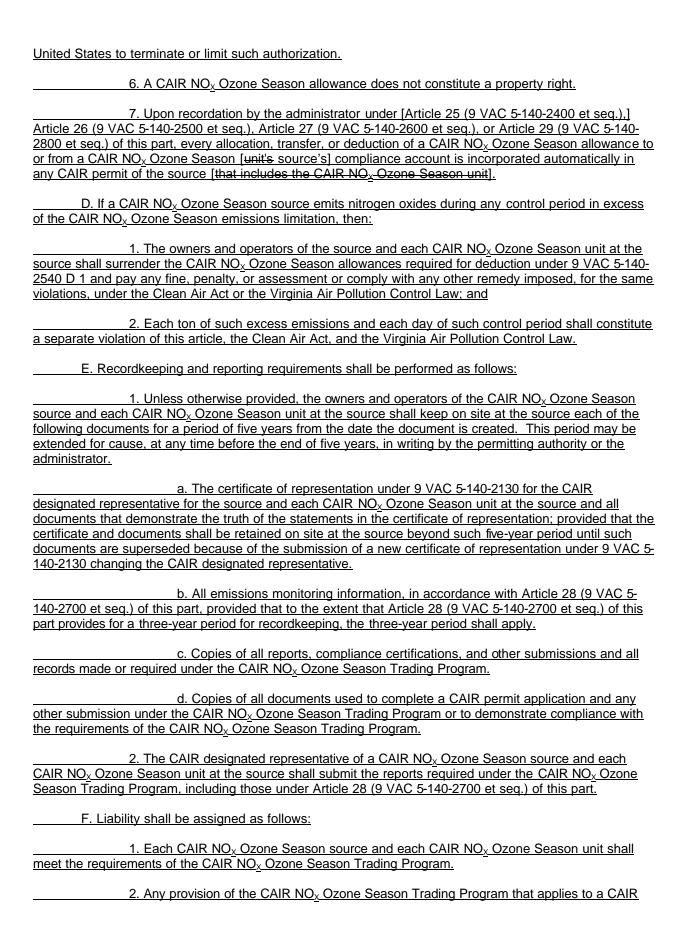


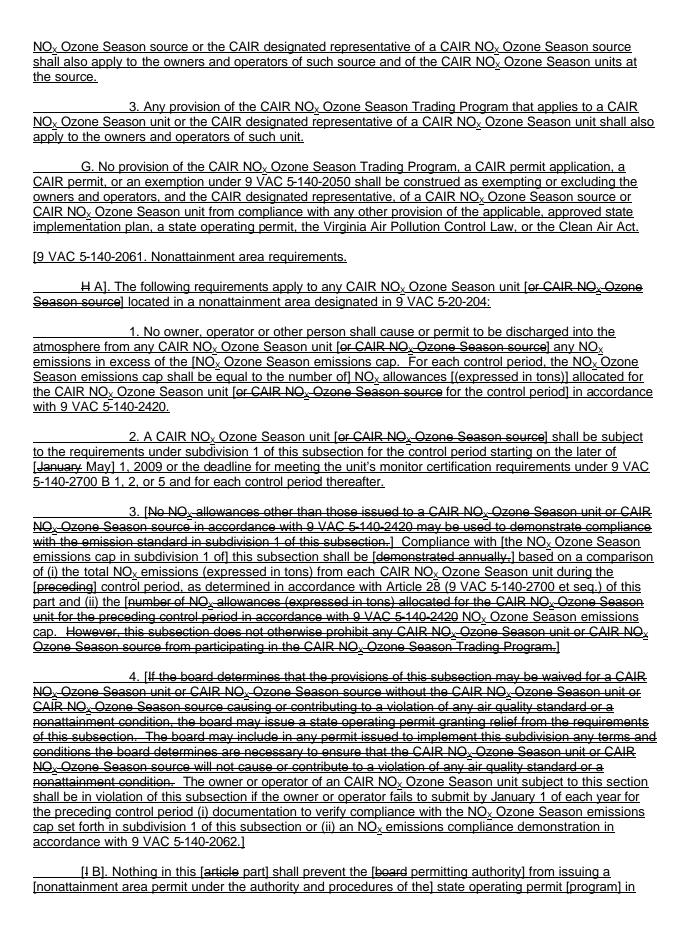
average annual fuel consumption of fossil fuel of 20% or more.]

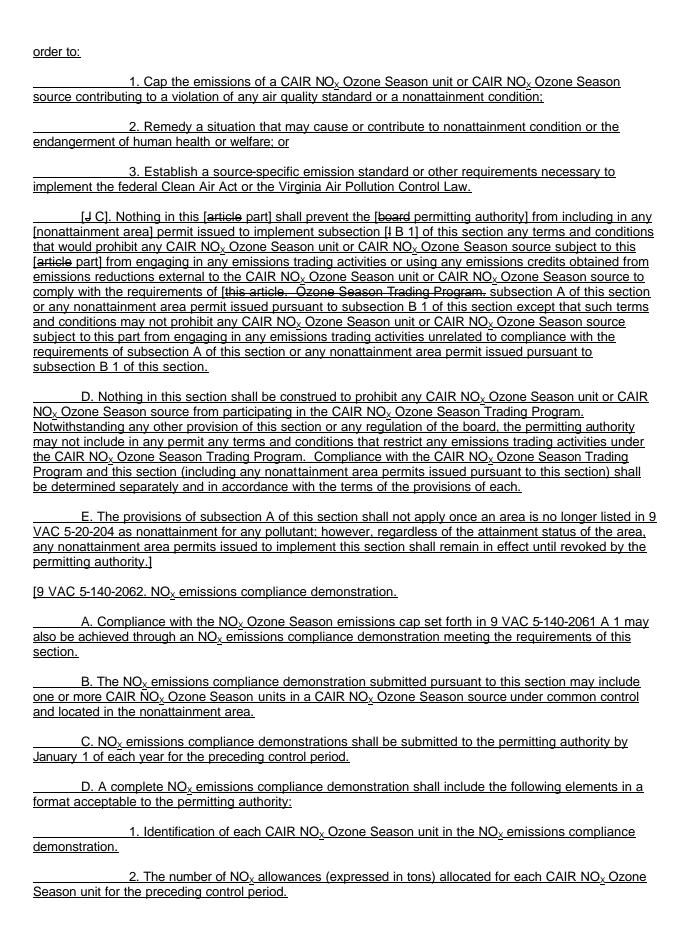












3. The total $NO_{\underline{x}}$ emissions (expressed in tons) from each CAIR $NO_{\underline{x}}$ Ozone Season unit during the preceding control period.
4. The calculation for the equation in subsection E of this section.
E. Compliance with this section shall be demonstrated with the following equation:
$\frac{n}{S_{i=1}(ANOE_i) \cdot \mathbf{f} \cdot S_{i=1}^n(X)}$
where:
n is the number of CAIR NO $_{\underline{x}}$ Ozone Season units in the NO $_{\underline{x}}$ emissions compliance demonstration (n may equal 1).
S is the sum of all i CAIR NO _x Ozone Season units.
i is an CAIR NO _x Ozone Season unit identified in subsection B of this section.
ANOE (Actual Nitrogen Oxides Emissions) are the total $NO_{\underline{X}}$ emissions (expressed in tons) from each CAIR $NO_{\underline{X}}$ Ozone Season unit during the preceding control period, as determined in accordance with Article 28 (9 VAC 5-140-2700 et seq.) of this part.
X is the number of NO_X allowances (expressed in tons) allocated for the CAIR NO_X Ozone Season unit for the preceding control period in accordance with 9 VAC 5-140-2420.
F. The emissions measurements recorded and reported in accordance with Article 28 (9 VAC 5-140-2700 et seq.) of this part shall be used to determine compliance by each CAIR NO _x Ozone Season source with the NO _x Ozone Season emissions cap set forth in 9 VAC 5-140-2061 A.]
9 VAC 5-140-2070. Computation of time.
A. Unless otherwise stated, any time period scheduled, under the CAIR $NO_{\underline{\chi}}$ Ozone Season Trading Program, to begin on the occurrence of an act or event shall begin on the day the act or event occurs.
B. Unless otherwise stated, any time period scheduled, under the CAIR $NO_{\underline{x}}$ Ozone Season Trading Program, to begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs.
C. Unless otherwise stated, if the final day of any time period, under the CAIR $NO_{\underline{x}}$ Ozone Season Trading Program, falls on a weekend or a state or federal holiday, the time period shall be extended to the next business day.
9 VAC 5-140-2080. Appeal [Procedures procedures].
The appeal procedures for decisions of the administrator under the CAIR NO _x Ozone Season Trading Program are set forth in 40 CFR Part 78.
Article 22. CAIR Designated Representative for CAIR NO _x Ozone Season Sources.
9 VAC 5-140-2100. Authorization and responsibilities of CAIR designated representative.
A. Except as provided under 9 VAC 5-140-2110, each CAIR NO _x Ozone Season source, including all CAIR NO _x Ozone Season units at the source, shall have one and only one CAIR designated

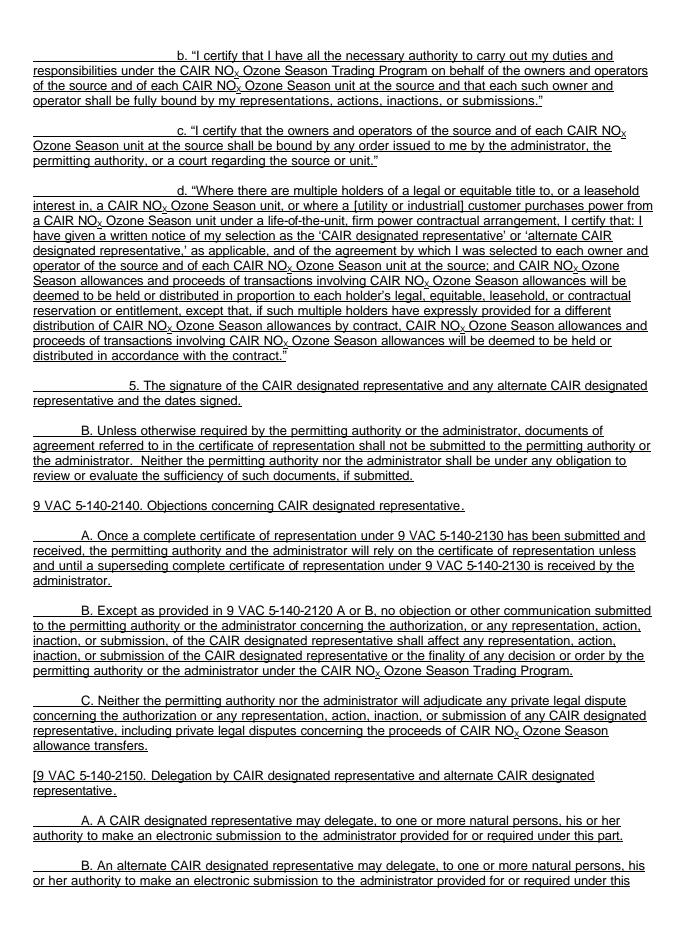
representative, with regard to all matters under the CAIR NO_x Ozone Season Trading Program concerning the source or any CAIR NO_x Ozone Season unit at the source. B. The CAIR designated representative of the CAIR NO_x Ozone Season source shall be selected by an agreement binding on the owners and operators of the source and all CAIR NO_x Ozone Season units at the source and shall act in accordance with the certification statement in 9 VAC 5-140-2130 A 4 d. C. Upon receipt by the administrator of a complete certificate of representation under 9 VAC 5-140-2130, the CAIR designated representative of the source shall represent and, by the CAIR designated representative's representations, actions, inactions, or submissions, legally bind each owner and operator of the CAIR NO_x Ozone Season source represented and each CAIR NO_x Ozone Season unit at the source in all matters pertaining to the CAIR NO_x Ozone Season Trading Program, notwithstanding any agreement between the CAIR designated representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the CAIR designated representative by the permitting authority, the administrator, or a court regarding the source or unit. D. No CAIR permit will be issued, no emissions data reports will be accepted, and no CAIR NO_x Ozone Season Allowance Tracking System account will be established for a CAIR NO_x Ozone Season unit at a source, until the administrator has received a complete certificate of representation under 9 VAC 5-140-2130 for a CAIR designated representative of the source and the CAIR NO_X Ozone Season units at the source. E.1. Each submission under the CAIR NO_x Ozone Season Trading Program shall be submitted. signed, and certified by the CAIR designated representative for each CAIR NO_x Ozone Season source on behalf of which the submission is made. Each such submission shall include the following certification statement by the CAIR designated representative: "I am authorized to make this submission on behalf of the owners and operators of the source or units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment." 2. The permitting authority and the administrator will accept or act on a submission made on behalf of owner or operators of a CAIR NO_X Ozone Season source or a CAIR NO_X Ozone Season unit only if the submission has been made, signed, and certified in accordance with subdivision 1 of this subsection. 9 VAC 5-140-2110. Alternate CAIR designated representative. A. A certificate of representation under 9 VAC 5-140-2130 may designate one and only one alternate CAIR designated representative, who may act on behalf of the CAIR designated representative. The agreement by which the alternate CAIR designated representative is selected shall include a procedure for authorizing the alternate CAIR designated representative to act in lieu of the CAIR designated representative. B. Upon receipt by the administrator of a complete certificate of representation under 9 VAC 5-140-2130, any representation, action, inaction, or submission by the alternate CAIR designated representative shall be deemed to be a representation, action, inaction, or submission by the CAIR designated representative.

VAC 5-140-2130, [9 VAC 5-140-2150,] 9 VAC 5-140-2510, and 9 VAC 5-140-2820 whenever the term "CAIR designated representative" is used in this part, the term shall be construed to include the CAIR designated

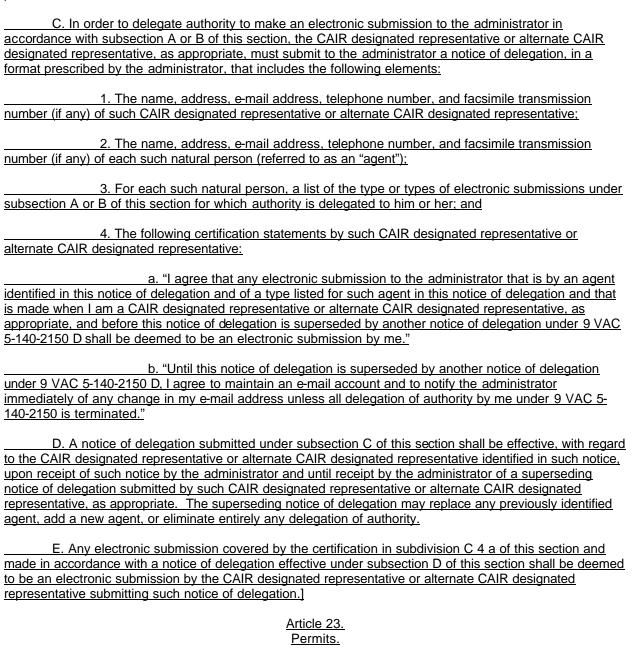
representative or any alternate CAIR designated representative.

C. Except in this section and 9 VAC 5-140-2020, 9 VAC 5-140-2100 A and D, 9 VAC 5-140-2120, 9

9 VAC 5-140-2120. Changing CAIR designated representative and alternate CAIR designated representative; changes in owners and operators.
A. The CAIR designated representative may be changed at any time upon receipt by the administrator of a superseding complete certificate of representation under 9 VAC 5-140-2130. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CAIR designated representative before the time and date when the administrator receives the superseding certificate of representation shall be binding on the new CAIR designated representative and the owners and operators of the CAIR NO _X Ozone Season source and the CAIR NO _X Ozone Season units at the source.
B. The alternate CAIR designated representative may be changed at any time upon receipt by the administrator of a superseding complete certificate of representation under 9 VAC 5-140-2130. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate CAIR designated representative before the time and date when the administrator receives the superseding certificate of representation shall be binding on the new alternate CAIR designated representative and the owners and operators of the CAIR NO _X Ozone Season source and the CAIR NO _X Ozone Season units at the source.
C. Changes in owners and operators shall be established as follows:
1. In the event [a_new an] owner or operator of a CAIR NO _x Ozone Season source or a CAIR NO _x Ozone Season unit is not included in the list of owners and operators in the certificate of representation under 9 VAC 5-140-2130, such [new] owner or operator shall be deemed to be subject to and bound by the certificate of representation, the representations, actions, inactions, and submissions of the CAIR designated representative and any alternate CAIR designated representative of the source or unit, and the decisions and orders of the permitting authority, the administrator, or a court, as if the [new] owner or operator were included in such list.
2. Within 30 days following any change in the owners and operators of a CAIR $NO_{\underline{x}}$ Ozone Season source or a CAIR $NO_{\underline{x}}$ Ozone Season unit, including the addition of a new owner or operator, the CAIR designated representative or any alternate CAIR designated representative shall submit a revision to the certificate of representation under 9 VAC 5-140-2130 amending the list of owners and operators to include the change.
9 VAC 5-140-2130. Certificate of representation.
A. A complete certificate of representation for a CAIR designated representative or an alternate CAIR designated representative shall include the following elements in a format prescribed by the administrator:
1. Identification of the CAIR NO _x Ozone Season source, and each CAIR NO _x Ozone Season unit at the source, for which the certificate of representation is submitted[, including identification and nameplate capacity of each generator served by each such unit].
2. The name, address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the CAIR designated representative and any alternate CAIR designated representative.
3. A list of the owners and operators of the CAIR $NO_{\underline{x}}$ Ozone Season source and of each CAIR $NO_{\underline{x}}$ Ozone Season unit at the source.
4. The following certification statements by the CAIR designated representative and any alternate CAIR designated representative:
a. "I certify that I was selected as the CAIR designated representative or alternate CAIR designated representative, as applicable, by an agreement binding on the owners and operators of the source and each CAIR NO _X Ozone Season unit at the source."



part.



9 VAC 5-140-2200. General CAIR NO_x Ozone Season Trading Program permit requirements.

A. For each CAIR NO_x Ozone Season source required to have a title V operating permit or required, under Article 29 (9 VAC 5-140-2800 et seq.) of this part, to have a title V operating permit or other state operating permit, such permit shall include a CAIR permit administered by the permitting authority for the title V operating permit or the state operating permit as applicable. The CAIR portion of the title V permit or state operating permit as applicable shall be administered in accordance with the permitting authority's title V operating permit regulations or regulations for state operating permits as applicable, except as provided otherwise by [9 VAC 5-140-2050,] this article[,] and Article 29 (9 VAC 5-140-2800 et seq.) of this part.

B. Each CAIR permit shall contain, with regard to the CAIR NO_x Ozone Season source and the CAIR NO_x Ozone Season units at the source covered by the CAIR permit, all applicable CAIR NO_x Ozone

Season Trading Program, CAIR NO_X Annual Trading Program, and CAIR SO₂ Trading Program requirements and shall be a complete and separable portion of the title V operating permit or other state operating permit under subsection A of this section.

9 VAC 5-140-2210. Submission of CAIR permit applications. A. The CAIR designated representative of any CAIR NO_x Ozone Season source required to have a title V operating permit shall submit to the permitting authority a complete CAIR permit application under 9 VAC 5-140-2220 for the source covering each CAIR NO_x Ozone Season unit at the source at least 18 months (or such lesser time provided by the permitting authority) before the later of January 1, 2009 or the date on which the CAIR NO_x Ozone Season unit commences [commercial] operation [, except as provided in 9 VAC 5-140-2830 A]. B. For a CAIR NO_x Ozone Season source required to have a title V operating permit, the CAIR designated representative shall submit a complete CAIR permit application under 9 VAC 5-140-2220 for the source covering each CAIR NO_x Ozone Season unit at the source to renew the CAIR permit in accordance with the permitting authority's title V operating permit regulations addressing permit renewal [, except as provided in 9 VAC 5-140-2830 B]. 9 VAC 5-140-2220. Information requirements for CAIR permit applications. A complete CAIR permit application shall include the following elements concerning the CAIR NOx Ozone Season source for which the application is submitted, in a format acceptable to the permitting authority: A. Identification of the CAIR NO_x Ozone Season source; B. Identification of each CAIR NO_x Ozone Season unit at the CAIR NO_x Ozone Season source; and C. The standard requirements under 9 VAC 5-140-2060. 9 VAC 5-140-2230. CAIR permit contents and term. A. Each CAIR permit will contain, in a format acceptable to the permitting authority, all elements required for a complete CAIR permit application under 9 VAC 5-140-2220. B. Each CAIR permit is deemed to incorporate automatically the definitions of terms under 9 VAC 5-140-2020 and, upon recordation by the administrator under Article 26 (9 VAC 5-140-2500 et seg.), Article 27 (9 VAC 5-140-2600 et seq.), or Article 29 (9 VAC 5-140-2800 et seq.) of this part, every allocation, transfer, or deduction of a CAIR NOx Ozone Season allowance to or from the compliance account of the CAIR NO_x Ozone Season source covered by the permit. C. The term of the CAIR permit will be set by the permitting authority, as necessary to facilitate coordination of the renewal of the CAIR permit with issuance, revision, or renewal of the CAIR NO_x Ozone Season source's title V operating permit or state operating permit as applicable. 9 VAC 5-140-2240. CAIR permit revisions. Except as provided in 9 VAC 5-140-2230 B, the permitting authority will revise the CAIR permit, as necessary, in accordance with the permitting authority's title V operating permit regulations or the permitting

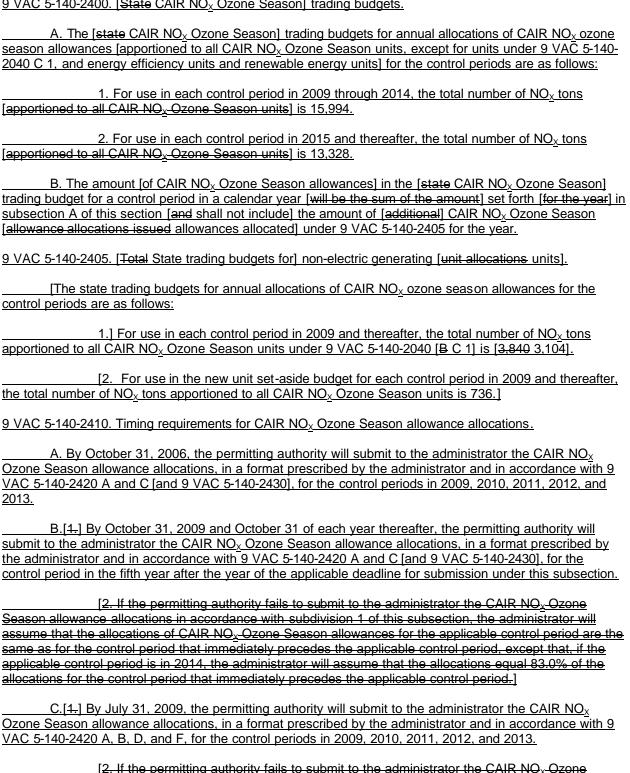
Article 24. [Reserved].

authority's regulations for state operating permits as applicable addressing permit revisions.

9 VAC 5-140-2300. [Reserved].

Article 25. CAIR NO_x Ozone Season Allowance Allocations.

9 VAC 5-140-2400. [State CAIR NO_x Ozone Season] trading budgets.



Season allowance allocations in accordance with subdivision 1 of this subsection, the administrator will assume that the allocations of CAIR NO_X. Ozone Season allowances for the applicable control period are the same as for the control period that immediately precedes the applicable control period, except that, if the applicable control period is in 2014, the administrator will assume that the allocations equal 83.0% of the allocations for the control period that immediately precedes the applicable control period and except that any CAIR NO_X Ozone Season unit that would otherwise be allocated CAIR NO_X Ozone Season allowances under 9 VAC 5-140-2420 A, B, D, and F, for the applicable control period will be assumed to be allocated no CAIR NO_X Ozone Season allowances under 9 VAC 5-140-2420 A, B, D, and F for the applicable control period.]

D.[1.] By July 31, 2014 and July 31 of each year thereafter, the permitting authority will submit to the administrator the CAIR NO_X Ozone Season allowance allocations, in a format prescribed by the administrator and in accordance with 9 VAC 5-140-2420 A, B, E, and F, for the control period in the year of the applicable deadline for submission under this subsection.

[2. If the permitting authority fails to submit to the administrator the CAIR NO_X Ozone Season allowance allocations in accordance with subdivision 1 of this subsection, the administrator will assume that the allocations of CAIR NO_X Ozone Season allowances for the applicable control period are the same as for the control period that immediately precedes the applicable control period, except that, if the

applicable control period is in 2014, the administrator will assume that the allocations equal 83.0% of the allocations for the control period that immediately precedes the applicable control period and except that any CAIR NO_x Ozone Season unit that would otherwise be allocated CAIR NO_x Ozone Season allowances under 9 VAC 5-140-2420 A, B, and C, as well as under 9 VAC 5-140-2420 A, B, E, and F, for the applicable control period will be assumed to be allocated no CAIR NO_x Ozone Season allowances under 9 VAC 5-140-2420 A, B, E, and F for the applicable control period.]

9 VAC 5-140-2420. CAIR NO_x Ozone Season allowance allocations.

A.1. The baseline heat input (in mmBtu) used with respect to CAIR NO_x Ozone Season allowance allocations under subsection C of this section for each CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040 A will be:

a. For units commencing operation before January 1, 2006, the average of the three highest amounts of the unit's control period heat input for the five years prior to the allocation year. For units operating each calendar year during a period of at least one but less than five consecutive calendar years, one year or, where available, the average of the two highest amounts of the unit's control period heat input over the consecutive years of operation.

b. For units commencing operation on or after January 1, 2006:

(1) For units operating each calendar year during a period of five or more consecutive calendar years, the average of the three highest amounts of the unit's total converted control period heat input over the most recent five years prior to the allocation year.

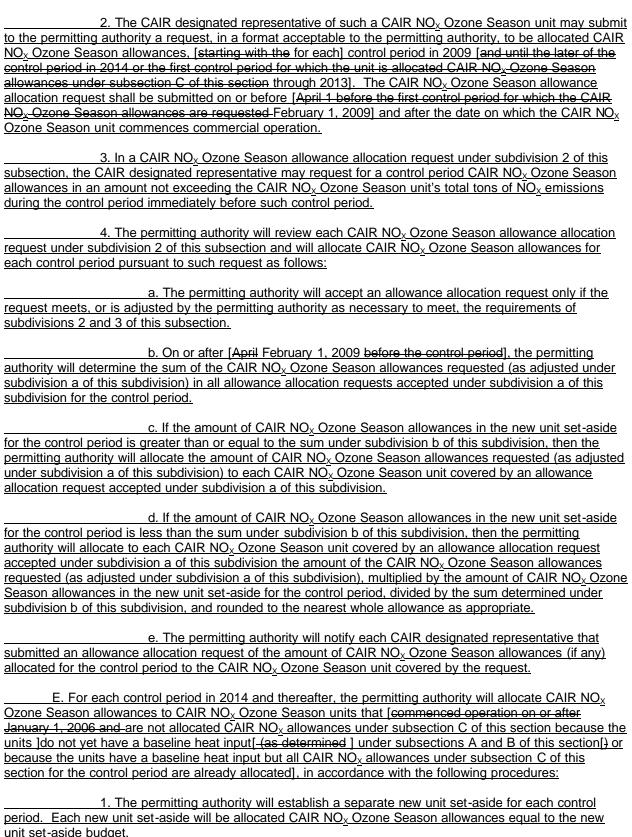
(2) For units operating each calendar year during a period of at least three but less than five consecutive calendar years, the average of the three highest amounts of the unit's total converted control period heat input over the consecutive years of operation.

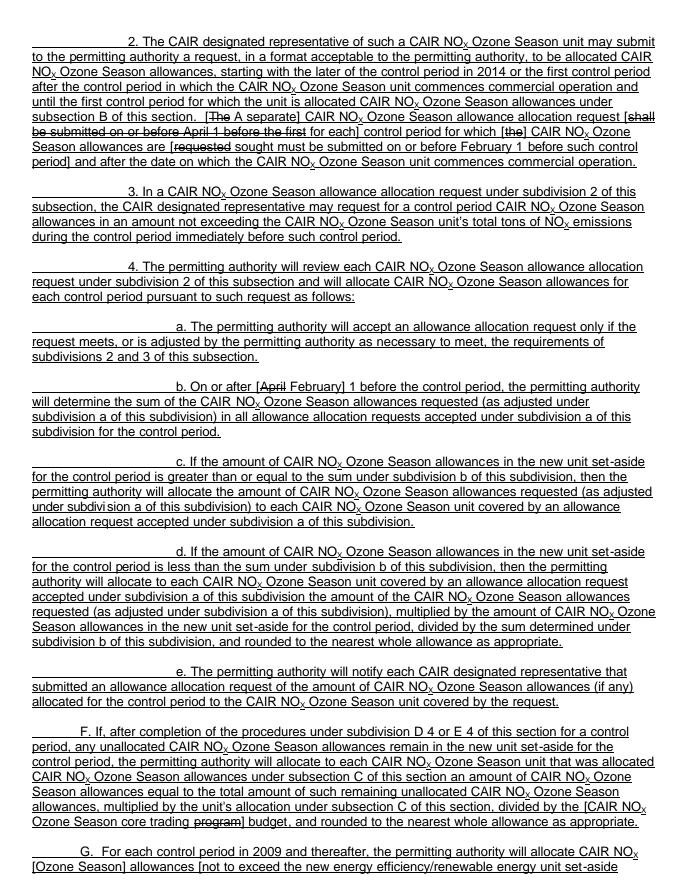
(3) For units operating each calendar year during a period of at least one but less than five consecutive calendar years, one year or, where available, the average of the two highest amounts of the unit's control period heat input over the consecutive years of operation.

2.a. A unit's control period heat input for a calendar year under subdivision 1 a of this subsection, and a unit's total tons of NO_x emissions during a control period in a calendar year under subdivision D 3 [and E 3] of this section, will be determined in accordance with 40 CFR Part 75, to the extent the unit was otherwise subject to the requirements of 40 CFR Part 75 for the year, or will be based on the best available data reported to the permitting authority for the unit, to the extent the unit was not

otherwise subject to the requirements of 40 CFR Part 75 for the year. b. A unit's converted control period heat input for a calendar year specified under subdivision 1 b of this subsection equals: (1) Except as provided in subdivision (2) of this subdivision, the control period gross electrical output of the generator or generators served by the unit multiplied by 7,900 Btu/kWh and divided by 1,000,000 Btu/mmBtu, provided that if a generator is served by two or more units, then the gross electrical output of the generator will be attributed to each unit in proportion to the unit's share of the total control period heat input of such units for the year; (2) For a unit that has equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy, the control period gross electrical output of the unit multiplied by 7,900 Btu/kWh[,] plus the useful thermal energy (in Btu) produced during the control period, divided by 0.8[.] and [with the sum divided] by 1.000.000 Btu/mmBtu. B.1. [For units commencing operation on or after January 1, 2006, the The] baseline heat input (in mmBtu) used with respect to CAIR NO_x Ozone Season allowance allocations under subsection C of this section for each CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040 [B C 2] will be: a. For units operating each calendar year during a period of five or more consecutive calendar years, the average of the three highest amounts of the unit's total control period heat input over the most recent five years prior to the allocation year. b. For units operating each calendar year during a period of at least three but less than five consecutive calendar years, the average of the three highest amounts of the unit's total control period heat input over the consecutive years of operation. 2. A unit's control period heat input for a calendar year under subdivision 1 of this subsection, and a unit's total tons of NO_x emissions during a control period in a calendar year under subdivision D 3 [and E 3] of this section, will be determined in accordance with 40 CFR Part 75, to the extent the unit was otherwise subject to the requirements of 40 CFR Part 75 for the year, or will be based on the best available data reported to the permitting authority for the unit, to the extent the unit was not otherwise subject to the requirements of 40 CFR Part 75 for the year. C.1. For each control period in 2009 and thereafter, the permitting authority will allocate to all CAIR NO_x Ozone Season units that have a baseline heat input (as determined under subsections A and B of this section) a total amount of CAIR NO_x Ozone Season allowances equal to the [CAIR NO_x Ozone Season core trading program] budget (except as provided in subsection F of this section). 2. The permitting authority will allocate CAIR NO_x Ozone Season allowances to each CAIR NO_x Ozone Season unit under subdivision 1 of this subsection in an amount determined by multiplying the total amount of CAIR NOx Ozone Season allowances allocated under subdivision 1 of this subsection by the ratio of the baseline heat input of such CAIR NO_x Ozone Season unit to the total amount of baseline heat input of all such CAIR NO_x Ozone Season units and rounding to the nearest whole allowance as appropriate. D. For each control period in 2009 through 2013, the permitting authority will allocate CAIR NO_x Ozone Season allowances to CAIR NOx Ozone Season units that [commenced operation on or after January 1, 2006 and are not allocated CAIR NO_x allowances under subsection C of this section because the units Ido not yet have a baseline heat input[-(as determined I under subsections A and B of this section[) or because the units have a baseline heat input but all CAIR NOx allowances under subsection C of this section for the control period are already allocated], in accordance with the following procedures: 1. The permitting authority will establish a separate new unit set-aside for each control period. Each new unit set-aside will be allocated CAIR NO_x Ozone Season allowances equal to the new

unit set-aside budget.

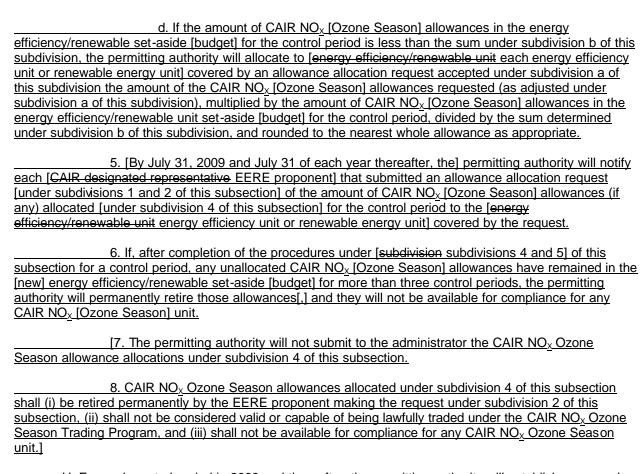




procedures: 1. [The total number of NO_x-tons available for the new energy efficiency/renewable set aside for annual allocations of CAIR NO_x-ozone season allowances for use in each control period for the years 2009 and thereafter is 36. 2. The CAIR designated representative EERE proponent of such an energy efficiency/renewable energy unit energy efficiency unit or a renewable energy unit] may submit to the permitting authority a request, in a format acceptable to the permitting authority, to be allocated CAIR NO_x [Ozone Season] allowances, starting with the later of the control period in 2009 or the first control period after the control period in which the energy efficiency [unit is implemented or the renewable energy] unit commences commercial operation. The CAIR NO_x [Ozone Season] allowance allocation request must be submitted on or before [July April] 1 of [the first each] control period for which the CAIR NO_x [Ozone Season] allowances are requested and after the date on which the energy efficiency [unit is implemented or the renewable energy] unit commences commercial operation. [2. EERE proponents may submit an application that aggregates two or more energy efficiency units or renewable energy units. The permitting authority will not allocate CAIR NOx Ozone Season allowances for energy efficiency units or renewable energy units totaling less than one whole allowance or any fraction thereof. If more than one proponent submits an application for allowances for the same energy efficiency unit or renewable energy unit for the same calendar year, the permitting authority, at its discretion, may refuse to accept the applications.] 3. In a CAIR NO_x [Ozone Season] allowance allocation request under [subdivision subdivisions 1 and 2 of this subsection, the [CAIR designated representative EERE proponent] may request for a control period CAIR NO_x [Ozone Season] allowances in an amount not exceeding: a. For a renewable energy unit, the control period gross electrical output of the facility during the calendar year immediately before such control period multiplied by 1.5 lb/MWh for the years 2009-2014, or 1.25 lb/MWh for 2015 and thereafter and divided by 2000 and rounded to nearest whole allowance as appropriate. b. For an energy efficiency [project unit], the control period verified reduction in electricity consumption during the calendar year immediately before such control period multiplied by 1.5 lb/MWh for the years 2009- 2013, or 1.25 lb/MWh for 2014 and thereafter and divided by 2000 and rounded to the nearest whole allowance as appropriate. 4. The permitting authority will review each CAIR NOx [Ozone Season] allowance allocation request under [subdivision subdivisions 1 and 2 of this subsection section] and will allocate CAIR NO_x [Ozone Season] allowances for each control period pursuant to such request as follows: a. The permitting authority will accept an allowance allocation request only if the request meets, or is adjusted by the permitting authority as necessary to meet, the requirements of subdivisions [1,] 2 and 3 of this subsection. b. On or after July 1 of the control period, the permitting authority will determine the sum of the CAIR NO_x [Ozone Season] allowances requested (as adjusted under subdivision a of this subdivision) in all allowance allocation requests accepted under subdivision a of this subdivision for the control period. c. If the amount of CAIR NO_x [Ozone Season] allowances in the energy efficiency/renewable set-aside [budget] for the control period is greater than or equal to the sum under subdivision b of this subdivision, the permitting authority will allocate the amount of CAIR NO_x [Ozone Season] allowances requested (as adjusted under subdivision a of this subdivision) to each [energy efficiency/renewable unit energy efficiency unit or renewable energy unit] covered by an allowance allocation

budget] to qualifying energy efficiency [units] and renewable energy units in accordance with the following

request accepted under subdivision a of this subdivision.



H. For each control period in 2009 and thereafter, the permitting authority will establish an annual voluntary public health set-aside. Any allowances contributed to the public health set-aside will be permanently retired and will not be available for compliance for any affected unit.

9 VAC 5-140-2430. [Individual CAIR NO_x Ozone Season allowance allocations for individual existing] non-electric generating [unit allocations units].

For use in each control period for the year 2009 and each year thereafter, the number of NO_x tons apportioned to each CAIR NO_x Ozone Season unit under 9 VAC 5-140-2040 [B C] 1 is as follows:

Plant	Stack ID	Point ID	NO _x Allocation (Tons per control period)
CELANESE ACETATE LLC	<u>001</u>	<u>001</u>	<u>154</u>
CELANESE ACETATE LLC	002	<u>002</u>	<u>55</u>
DAN RIVER INC (SCHOOLFIELD DIV)	003	003	100
GEORGIA-PACIFIC - BIG ISLAND MILL	<u>001</u>	<u>002</u>	<u>89</u>
GEORGIA-PACIFIC - BIG ISLAND MILL	<u>005</u>	<u>005</u>	103
HONEYWELL INTERNATIONAL INC	<u>100</u>	<u>10A</u>	<u>0</u>
HONEYWELL INTERNATIONAL INC	<u>101</u>	<u>10B</u>	200

HONEYWELL INTERNATIONAL INC	102	<u>10C</u>	<u>156</u>
INTERNATIONAL PAPER – FRANKLIN	<u>001</u>	003	<u>306</u>
INTERNATIONAL PAPER – FRANKLIN	<u>012</u>	<u>017</u>	107
INTERNATIONAL PAPER – FRANKLIN	022	<u>029</u>	<u>262</u>
ST. LAURENT PAPER PRODUCTS CORP.	002	002	292
WESTVACO CORP BLEACHED BOARD	<u>001</u>	<u>001</u>	<u>293</u>
WESTVACO CORP BLEACHED BOARD	002	002	<u>158</u>
WESTVACO CORP BLEACHED BOARD	003	003	<u>243</u>
WESTVACO CORP BLEACHED BOARD	<u>004</u>	<u>004</u>	429
WESTVACO CORP BLEACHED BOARD	<u>005</u>	<u>005</u>	<u>87</u>
WESTVACO CORP BLEACHED BOARD	024	<u>011</u>	<u>70</u>
TOTAL			3104

Article 26. CAIR NO_x Ozone Season Allowance Tracking System.

9 VAC 5-140-2500. [Reserved].

9 VAC 5-140-2510. Establishment of accounts.

A. Except as provided in 9 VAC 5-140-2840 E, upon receipt of a complete certificate of representation under 9 VAC 5-140-2130, the administrator will establish a compliance account for the CAIR NO_X Ozone Season source for which the certificate of representation was submitted, unless the source already has a compliance account.

- B. General accounts shall be established as follows:
- 1. Applications for general accounts shall be submitted as follows:

a. Any person may apply to open a general account for the purpose of holding and transferring CAIR NO_X Ozone Season allowances. An application for a general account may designate one and only one CAIR authorized account representative and one and only one alternate CAIR authorized account representative who may act on behalf of the CAIR authorized account representative. The agreement by which the alternate CAIR authorized account representative is selected shall include a procedure for authorizing the alternate CAIR authorized account representative to act in lieu of the CAIR authorized account representative.

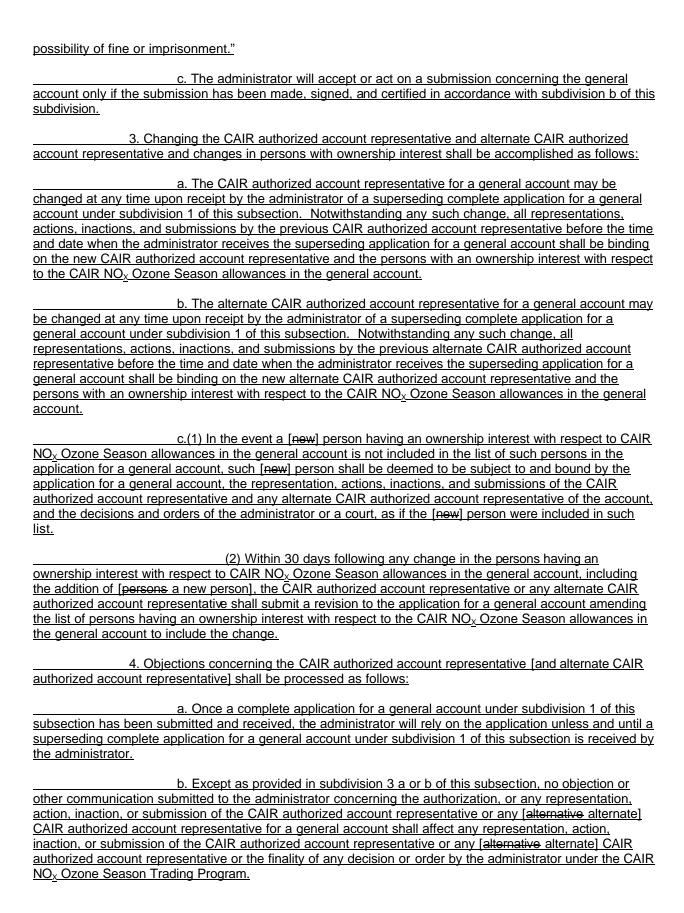
b. A complete application for a general account shall be submitted to the administrator and shall include the following elements in a format prescribed by the administrator:

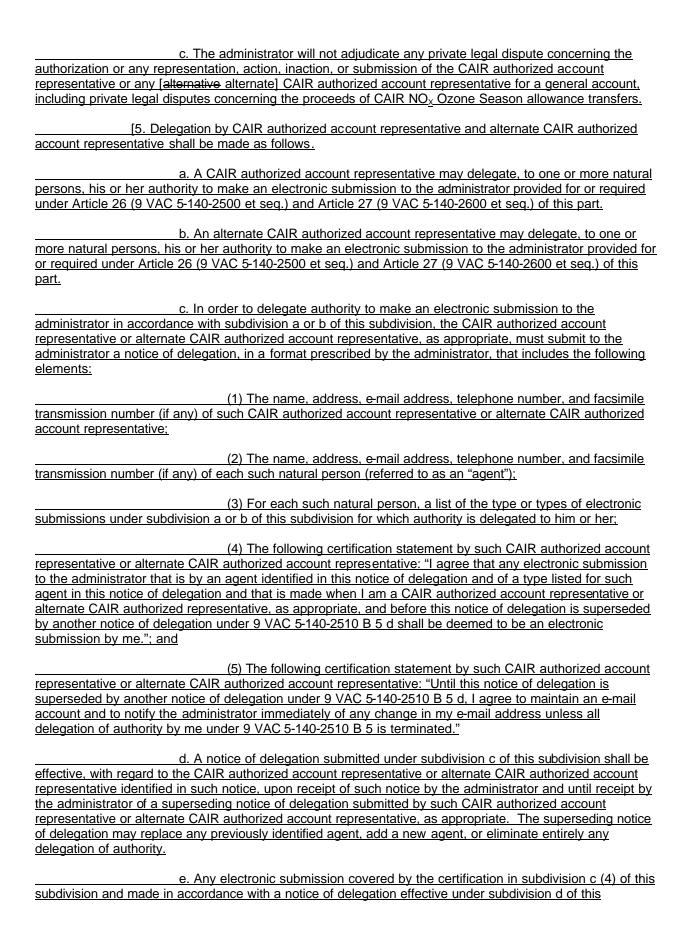
(1) Name, mailing address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the CAIR authorized account representative and any alternate CAIR authorized account representative:

- (2) Organization name and type of organization, if applicable:
- (3) A list of all persons subject to a binding agreement for the CAIR

authorized account representative and any alternate CAIR authorized account representative to represent their ownership interest with respect to the CAIR NO_x Ozone Season allowances held in the general account; (4) The following certification statement by the CAIR authorized account representative and any alternate CAIR authorized account representative: "I certify that I was selected as the CAIR authorized account representative or the alternate CAIR authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to CAIR NO_x Ozone Season allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CAIR NO_x Ozone Season Trading Program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the administrator or a court regarding the general account." (5) The signature of the CAIR authorized account representative and any alternate CAIR authorized account representative and the dates signed. c. Unless otherwise required by the permitting authority or the administrator, documents of agreement referred to in the application for a general account shall not be submitted to the permitting authority or the administrator. Neither the permitting authority nor the administrator shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted. 2. Authorization of a CAIR authorized account representative [and alternate CAIR authorized account representative] shall be established as follows: a. Upon receipt by the administrator of a complete application for a general account under subdivision 1 of this subsection: (1) The administrator will establish a general account for the person or persons for whom the application is submitted. (2) The CAIR authorized account representative and any alternate CAIR authorized account representative for the general account shall represent and, by such persons' representations, actions, inactions, or submissions, legally bind each person who has an ownership interest with respect to CAIR NO_x Ozone Season allowances held in the general account in all matters pertaining to the CAIR NO_x Ozone Season Trading Program, notwithstanding any agreement between the CAIR authorized account representative or any alternate CAIR authorized account representative and such person. Any such person shall be bound by any order or decision issued to the CAIR authorized account representative or any alternate CAIR authorized account representative by the administrator or a court regarding the general account. (3) Any representation, action, inaction, or submission by any alternate CAIR authorized account representative shall be deemed to be a representation, action, inaction, or submission by the CAIR authorized account representative. b. Each submission concerning the general account shall be submitted, signed, and certified by the CAIR authorized account representative or any alternate CAIR authorized account representative for the persons having an ownership interest with respect to CAIR NO_x Ozone Season allowances held in the general account. Each such submission shall include the following certification statement by the CAIR authorized account representative or any alternate CAIR authorized account representative: "I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the CAIR NO_x Ozone Season allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for

submitting false statements and information or omitting required statements and information, including the



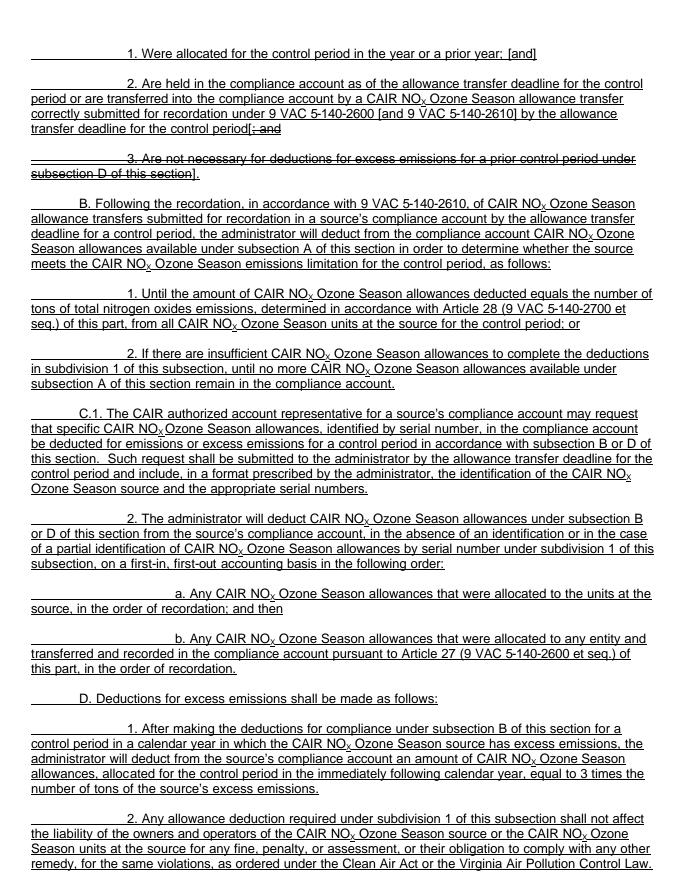


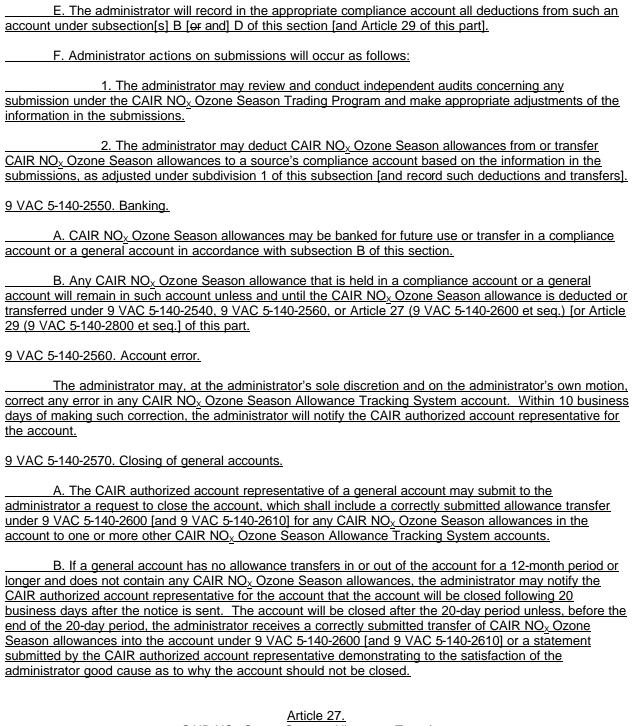
subdivision shall be deemed to be an electronic submission by the CAIR designated representative or alternate CAIR designated representative submitting such notice of delegation.] C. The administrator will assign a unique identifying number to each account established under subsection A or B of this section. 9 VAC 5-140-2520. Responsibilities of CAIR authorized account representative. Following the establishment of a CAIR NO_X Ozone Season Allowance Tracking System account, all submissions to the administrator pertaining to the account, including, but not limited to, submissions concerning the deduction or transfer of CAIR NO_x Ozone Season allowances in the account, shall be made only by the CAIR authorized account representative for the account. 9 VAC 5-140-2530. Recordation of CAIR NO_x Ozone Season allowance allocations. A. [The By September 30, 2007, the] administrator will record in the CAIR NO_x Ozone Season source's compliance account the CAIR NO_x Ozone Season allowances allocated for the CAIR NO_x Ozone Season units at [a the] source, as submitted by the permitting authority in accordance with 9 VAC 5-2410 A, for the control periods in 2009, 2010, 2011, 2012, and 2013. B. By December 1, 2009, the administrator will record in the CAIR NO_x Ozone Season source's compliance account the CAIR NO_x Ozone Season allowances allocated for the CAIR NO_x Ozone Season units at the source, as submitted by the permitting authority [or as determined by the administrator] in accordance with 9 VAC 5-140-2410 B, for the control period in 2014. C. [In 2011 By December 1, 2010] and [by December 1 of] each year thereafter, [after the administrator has made all deductions (if any) from a CAIR NOx Ozone Season source's compliance account under 9 VAC 5-140-2540-1 the administrator will record in the CAIR NO_x Ozone Season source's compliance account the CAIR NO_x Ozone Season allowances allocated for the CAIR NO_x Ozone Season units at the source, as submitted by the permitting authority [or determined by the administrator] in accordance with 9 VAC 5-140-2410 B, for the control period in the fifth year after the year of the [control period for which such deductions were or could have been made applicable deadline for recordation under this paragraph]. D. By September 1, 2009 [and September 1 of each year thereafter], the administrator will record in the CAIR NO_x Ozone Season source's compliance account the CAIR NO_x Ozone Season allowances allocated for the CAIR NO_x Ozone Season units at the source, as submitted by the permitting authority [exdetermined by the administrator in accordance with 9 VAC 5-140-2410 C, for the [control period in the year of the applicable deadline for recordation under this subsection control periods in 2009, 2010, 2011, 2012, and 2013]. E. [By September 1, 2014 and September 1 of each year thereafter, the administrator will record in the CAIR NO_x Ozone Season source's compliance account the CAIR NO_x Ozone Season allowances allocated for the CAIR NOx Ozone Season units at the source, as submitted by the permitting authority in accordance with 9 VAC 5-140-2410 D, for the control period in the year of the applicable deadline for recordation under this subsection. F.] When recording the allocation of CAIR NO_x Ozone Season allowances for a CAIR NO_x Ozone Season unit in a compliance account, the administrator will assign each CAIR NO_x Ozone Season allowance a unique identification number that will include digits identifying the year of the control period for which the CAIR NO_x Ozone Season allowance is allocated.

A. The CAIR NO_x Ozone Season allowances are available to be deducted for compliance with a source's CAIR NO_x Ozone Season emissions limitation for a control period in a given calendar year only if

9 VAC 5-140-2540. Compliance with CAIR NO_x emissions limitation.

the CAIR NO_x Ozone Season allowances:





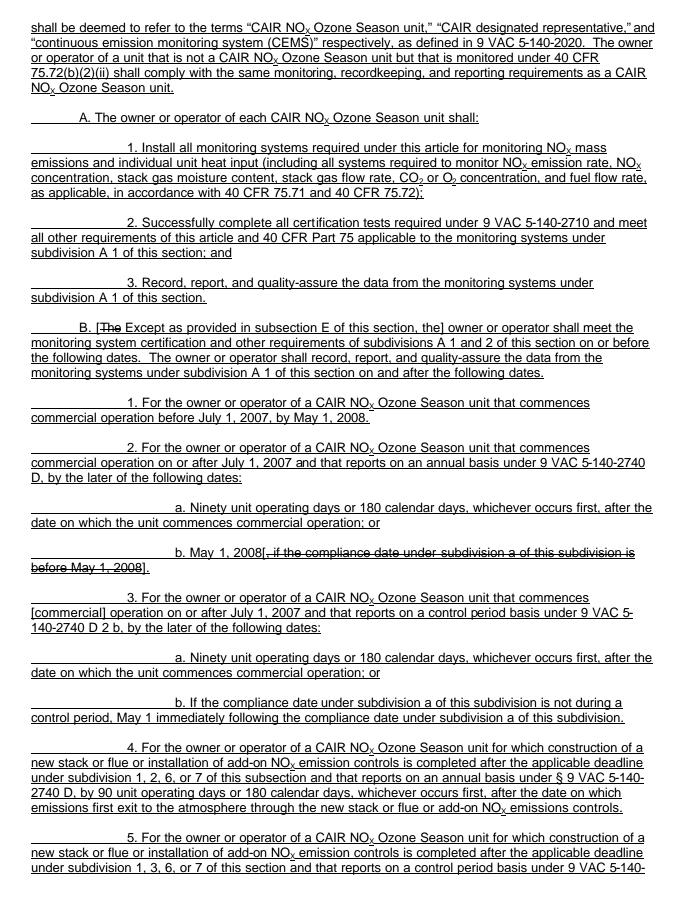
CAIR NO_x Ozone Season Allowance Transfers.

9 VAC 5-140-2600. Submission of CAIR NO_x Ozone Season allowance transfers.

A CAIR authorized account representative seeking recordation of a CAIR NO_x Ozone Season allowance transfer shall submit the transfer to the administrator. To be considered correctly submitted, the CAIR NO_x Ozone Season allowance transfer shall include the following elements, in a format specified by the administrator:

A. The account numbers for both the transferor and transferee accounts;
B. The serial number of each CAIR NO _x Ozone Season allowance that is in the transferor account and is to be transferred; and
C. The name and signature of the CAIR authorized account representative of the transferor account and the date signed.
9 VAC 5-140-2610. EPA recordation.
A. Within five business days (except as provided in subsection B of this section) of receiving a CAIR $NO_{\underline{x}}$ Ozone Season allowance transfer, the administrator will record a CAIR $NO_{\underline{x}}$ Ozone Season allowance transfer by moving each CAIR $NO_{\underline{x}}$ Ozone Season allowance from the transferor account to the transferee account as specified by the request, provided that:
1. The transfer is correctly submitted under 9 VAC 5-140-2600; and
2. The transferor account includes each CAIR NO _x Ozone Season allowance identified by serial number in the transfer.
B. A CAIR NO _X Ozone Season allowance transfer that is submitted for recordation after the allowance transfer deadline for a control period and that includes any CAIR NO _X Ozone Season allowances allocated for any control period before such allowance transfer deadline will not be recorded until after the administrator completes the deductions under 9 VAC 5-140-2540 for the control period immediately before such allowance transfer deadline.
C. Where a CAIR NO _X Ozone Season allowance transfer submitted for recordation fails to meet the requirements of subsection A of this section, the administrator will not record such transfer.
9 VAC 5-140-2620. Notification.
A. Within five business days of recordation of a CAIR NO _x Ozone Season allowance transfer under 9 VAC 5-140-2610, the administrator will notify the CAIR authorized account representatives of both the transferor and transferee accounts.
B. Within 10 business days of receipt of a CAIR NO _x Ozone Season allowance transfer that fails to meet the requirements of 9 VAC 5-140-2610 A, the administrator will notify the CAIR authorized account representatives of both accounts subject to the transfer of:
1. A decision not to record the transfer, and
2. The reasons for such non-recordation.
C. Nothing in this section shall preclude the submission of a CAIR NO _x Ozone Season allowance transfer for recordation following notification of non-recordation.
Article 28. Monitoring and Reporting.
9 VAC 5-140-2700. General requirements.

The owners and operators, and to the extent applicable, the CAIR designated representative, of a CAIR NO_x Ozone Season unit, shall comply with the monitoring, recordkeeping, and reporting requirements as provided in this article and in subpart H of 40 CFR Part 75. For purposes of complying with such requirements, the definitions in 9 VAC 5-140-2020 and in 40 CFR 72.2 shall apply, and the terms "affected unit," "designated representative," and "continuous emission monitoring system (CEMS)" in 40 CFR Part 75



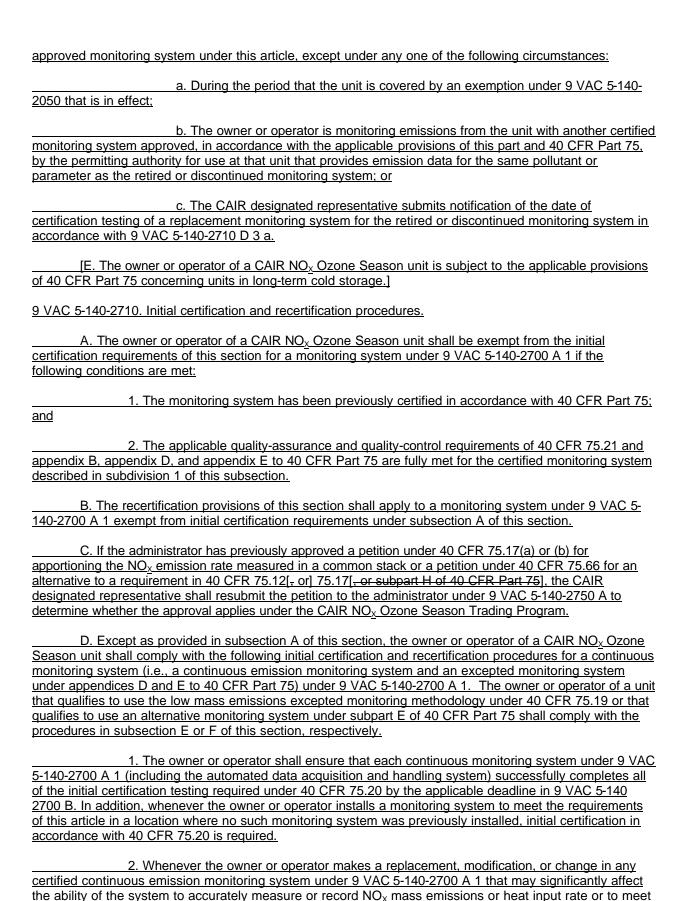
a. Ninety unit operating days or 180 calendar days, whichever occurs first, after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on NO_x emissions controls; or b. If the compliance date under subdivision a of this subdivision is not during a control period, May 1 immediately following the compliance date under subdivision a of this subdivision. 6. Notwithstanding the dates in subdivisions 1, 2, and 3 of this subsection, for the owner or operator of a unit for which a CAIR NO_x Ozone Season opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Article 29 (9 VAC 5-140-2800 et seq.) of this part, by the date specified in 9 VAC 5-140-2840 B. 7. Notwithstanding the dates in subdivisions 1, 2, and 3 of this subsection [and solely for purposes of § 9 VAC 5-140-2800 et seq.) of this part, by the date on which the CAIR NO_x Ozone Season opt-in unit under Article 29 (9 VAC 5-140-2800 et seq.) of this part, by the date on which the CAIR NO_x Ozone Season opt-in unit enters the CAIR NO_x Ozone Season Trading Program as provided in 9 VAC 5-140-2840 G. C. [Data shall be reported as follows:

1. Except as provided in subdivision 2 of this subsection, the The] owner or operator of a CAIR NO_X Ozone Season unit that does not meet the applicable compliance date set forth in subsection B of this section for any monitoring system under subdivision A 1 of this section shall, for each such monitoring system, determine, record, and report maximum potential (or, as appropriate, minimum potential) values for NO_X concentration, NO_X emission rate, stack gas flow rate, stack gas moisture content, fuel flow rate, and any other parameters required to determine NO_X mass emissions and heat input in accordance with 40 CFR 75.31(b)(2) or (c)(3), section 2.4 of appendix D to 40 CFR Part 75, or section 2.5 of appendix E to 40 CFR Part 75, as applicable.

[2. The owner or operator of a CAIR NO_x unit that does not meet the applicable compliance date set forth in subdivision B 4 of this section for any monitoring system under subdivision A 1 of this section shall, for each such monitoring system, determine, record, and report substitute data using the applicable missing data procedures in 40 CFR 75.74(c)(7) or subpart D or subpart H of, or appendix D or appendix E to, 40 CFR Part 75, in lieu of the maximum potential (or, as appropriate, minimum potential) values, for a parameter if the owner or operator demonstrates that there is continuity between the data streams for that parameter before and after the construction or installation under subdivision B 4 of this section.]

D. The following prohibitions shall apply.

- 1. No owner or operator of a CAIR NO_X Ozone Season unit shall use any alternative monitoring system, alternative reference method, or any other alternative to any requirement of this article without having obtained prior written approval in accordance with 9 VAC 5-140-2750.
- 2. No owner or operator of a CAIR $NO_{\underline{x}}$ Ozone Season unit shall operate the unit so as to discharge, or allow to be discharged, $NO_{\underline{x}}$ emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this part and 40 CFR Part 75.
- 3. No owner or operator of a CAIR $NO_{\underline{x}}$ Ozone Season unit shall disrupt the continuous emission monitoring system, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording $NO_{\underline{x}}$ mass emissions discharged into the atmosphere [or heat input], except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this article and 40 CFR Part 75
- 4. No owner or operator of a CAIR NO_x Ozone Season unit shall retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other

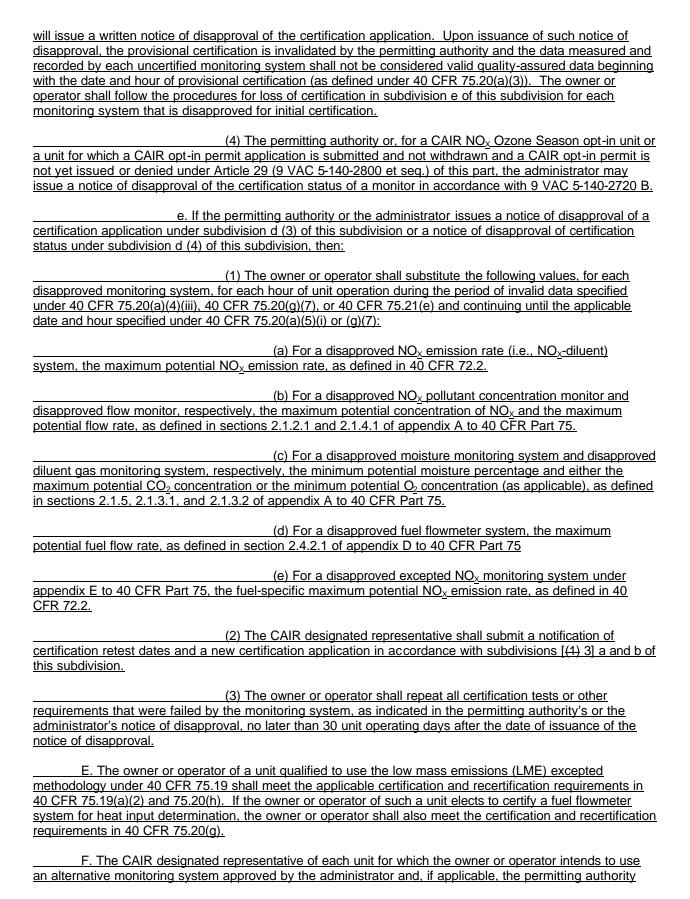


the quality-assurance and quality-control requirements of 40 CFR 75.21 or appendix B to 40 CFR Part 75 the owner or operator shall recertify the monitoring system in accordance with 40 CFR 75.20(b). Furthermore, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling system or the unit's operation that may significantly change the stack flow or concentration profile, the owner or operator shall recertify each continuous emission monitoring system whose accuracy is potentially affected by the change, in accordance with 40 CFR 75.20(b). Examples of changes to a continuous emission monitoring system that require recertification include: replacement of the analyzer, complete replacement of an existing continuous emission monitoring system, or change in location or orientation of the sampling probe or site. Any fuel flowmeter systems, and any excepted NO_x monitoring system under appendix E to 40 CFR Part 75, under 9 VAC 5-140-2700 A 1 are subject to the recertification requirements in 40 CFR 75.20(g)(6). 3. Subdivisions a through d of this subdivision apply to both initial certification and recertification of a continuous monitoring system under 9 VAC 5-140-2700 A 1. For recertifications, replace the words "certification" and "initial certification" with the word "recertification," replace the word "certified" with the word "recertified," and follow the procedures in 40 CFR 75.20(b)(5) and (g)(7) in lieu of the procedures in subdivision e of this subdivision. a. The CAIR designated representative shall submit to the permitting authority, the EPA Region III Office, and the administrator written notice of the dates of certification testing, in accordance with 9 VAC 5-140 2730. b. The CAIR designated representative shall submit to the permitting authority a certification application for each monitoring system. A complete certification application shall include the information specified in 40 CFR 75.63. c. The provisional certification date for a monitoring system shall be determined in accordance with 40 CFR 75.20(a)(3). A provisionally certified monitoring system may be used under the CAIR NO_x Ozone Season Trading Program for a period not to exceed 120 days after receipt by the permitting authority of the complete certification application for the monitoring system under subdivision b of this subdivision. Data measured and recorded by the provisionally certified monitoring system, in accordance with the requirements of 40 CFR Part 75, will be considered valid quality-assured data (retroactive to the date and time of provisional certification), provided that the permitting authority does not invalidate the provisional certification by issuing a notice of disapproval within 120 days of the date of receipt of the complete certification application by the permitting authority. d. The permitting authority will issue a written notice of approval or disapproval of the certification application to the owner or operator within 120 days of receipt of the complete certification application under subdivision b of this subdivision. In the event the permitting authority does not issue such a notice within such 120-day period, each monitoring system that meets the applicable performance requirements of 40 CFR Part 75 and is included in the certification application will be deemed certified for use under the CAIR NO_x Ozone Season Trading Program. (1) If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR Part 75, then the permitting authority will issue a written notice of approval of the certification application within 120 days of receipt. (2) If the certification application is not complete, then the permitting authority will issue a written notice of incompleteness that sets a reasonable date by which the CAIR designated representative shall submit the additional information required to complete the certification application. If the CAIR designated representative does not comply with the notice of incompleteness by the specified date, then the permitting authority may issue a notice of disapproval under subdivision (3) of this

subdivision. The 120-day review period shall not begin before receipt of a complete certification application.

not meet the performance requirements of 40 CFR Part 75 or if the certification application is incomplete and the requirement for disapproval under subdivision (2) of this subdivision is met, then the permitting authority

(3) If the certification application shows that any monitoring system does



under subpart E of 40 CFR Part 75 shall comply with the applicable notification and application procedures of 40 CFR 75.20(f).

9 VAC 5-140-2720. Out of control periods.

A. Whenever any monitoring system fails to meet the quality-assurance and quality-control requirements or data validation requirements of 40 CFR Part 75, data shall be substituted using the applicable missing data procedures in subpart D or subpart H of, or appendix D or appendix E to, 40 CFR Part 75.

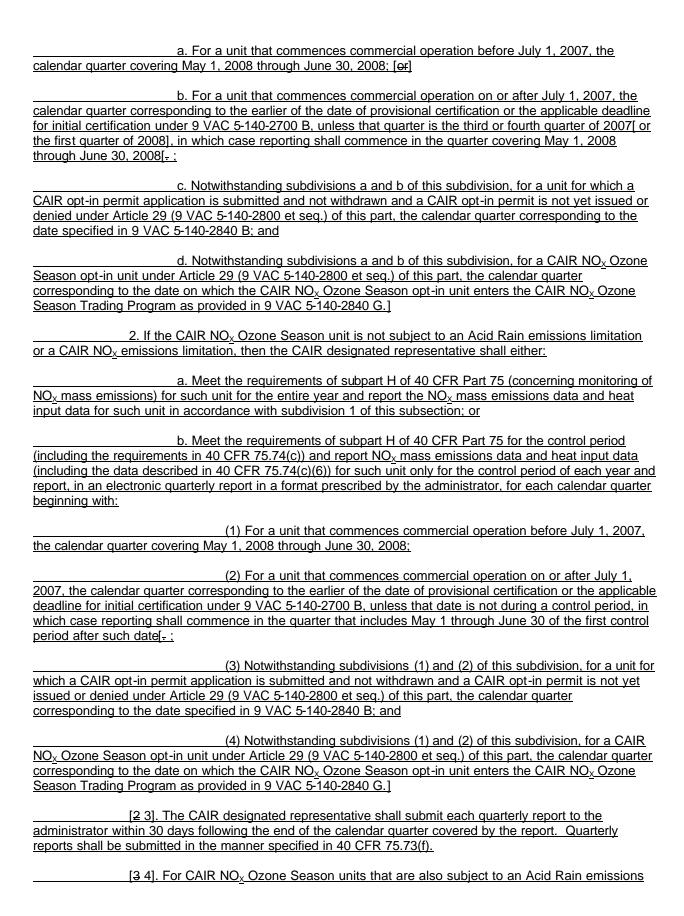
B. Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any monitoring system should not have been certified or recertified because it did not meet a particular performance specification or other requirement under 9 VAC 5-140-2710 or the applicable provisions of 40 CFR Part 75, both at the time of the initial certification or recertification application submission and at the time of the audit, the permitting authority or, for a CAIR NO_x Ozone Season opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Article 29 (9 VAC 5-140-2800 et seq.) of this part, the administrator will issue a notice of disapproval of the certification status of such monitoring system. For the purposes of this subsection, an audit shall be either a field audit or an audit of any information submitted to the permitting authority or the administrator. By issuing the notice of disapproval, the permitting authority or the administrator revokes prospectively the certification status of the monitoring system. The data measured and recorded by the monitoring system shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests for the monitoring system. The owner or operator shall follow the applicable initial certification or recertification procedures in 9 VAC 5-140-2710 for each disapproved monitoring system.

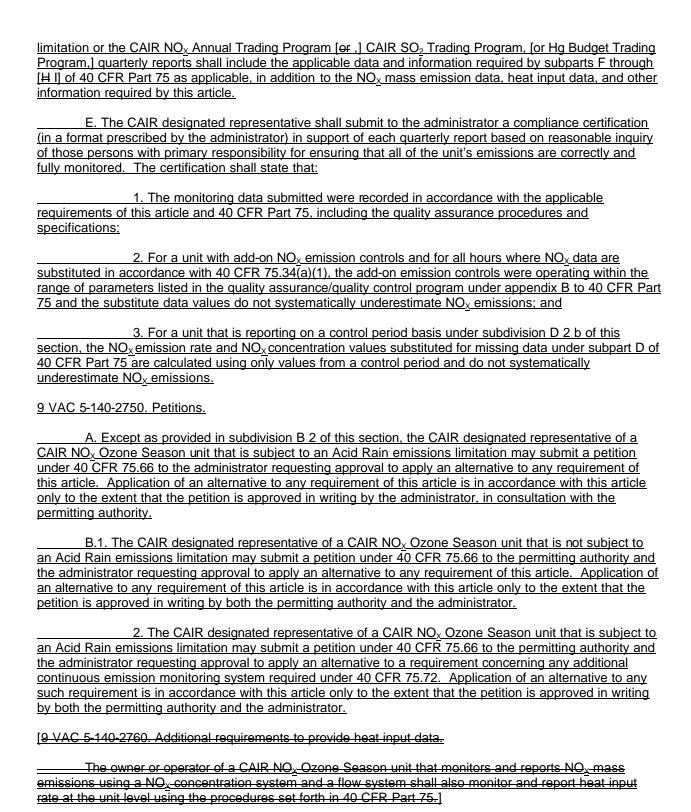
9 VAC 5-140-2730. Notifications.

The CAIR designated representative for a CAIR NO_x Ozone Season unit shall submit written notice to the permitting authority and the administrator in accordance with 40 CFR 75.61[, except that if the unit is not subject to an Acid Rain emissions limitation, the notification is only required to be sent to the permitting authority].

9 VAC 5-140-2740. Recordkeeping and reporting.

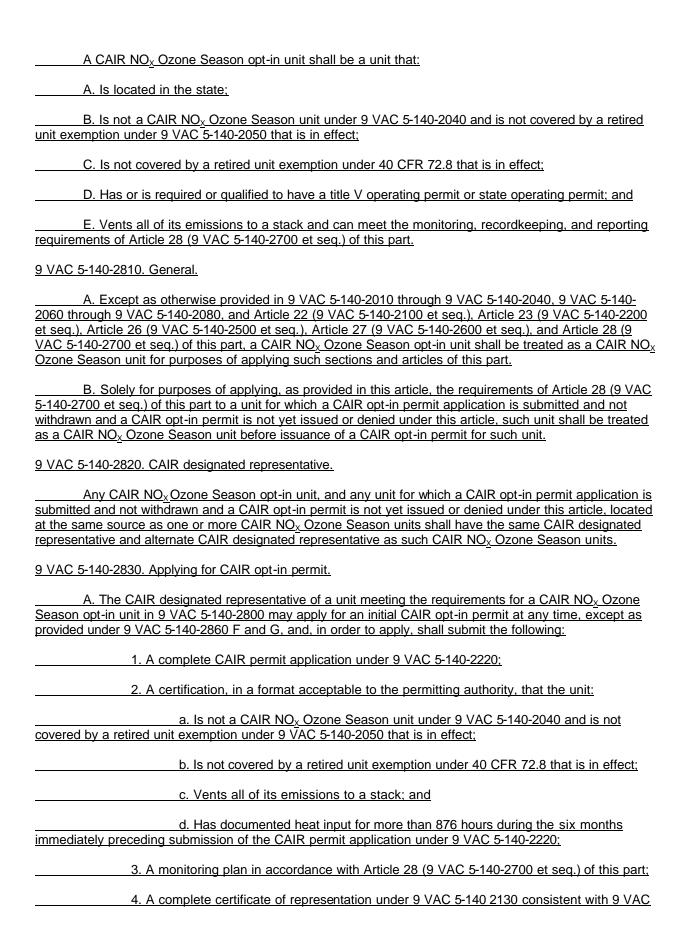
- A. The CAIR designated representative shall comply with all recordkeeping and reporting requirements in this section, the applicable recordkeeping and reporting requirements under 40 CFR 75.73, and the requirements of 9 VAC 5-140-2100 E 1.
- B. The owner or operator of a CAIR NO_X Ozone Season unit shall comply with requirements of 40 CFR 75.73(c) and (e) and, for a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Article 29 (9 VAC 5-140-2800 et seq.) of this part, 9 VAC 5-140-2830 and 9 VAC 5-140-2840 A.
- C. The CAIR designated representative shall submit an application to the permitting authority within 45 days after completing all initial certification or recertification tests required under 9 VAC 5-140-2710, including the information required under 40 CFR 75.63.
 - D. The CAIR designated representative shall submit quarterly reports, as follows:
- 1. If the CAIR NO_x Ozone Season unit is subject to an Acid Rain emissions limitation or a CAIR NO_x emissions limitation or if the owner or operator of such unit chooses to report on an annual basis under this article, the CAIR designated representative shall meet the requirements of subpart H of 40 CFR Part 75 (concerning monitoring of NO_x mass emissions) for such unit for the entire year and shall report the NO_x mass emissions data and heat input data for such unit, in an electronic quarterly report in a format prescribed by the administrator, for each calendar quarter beginning with:





Article 29.
CAIR NO_x Ozone Season Opt-in Units.

9 VAC 5-140-2800. Applicability.



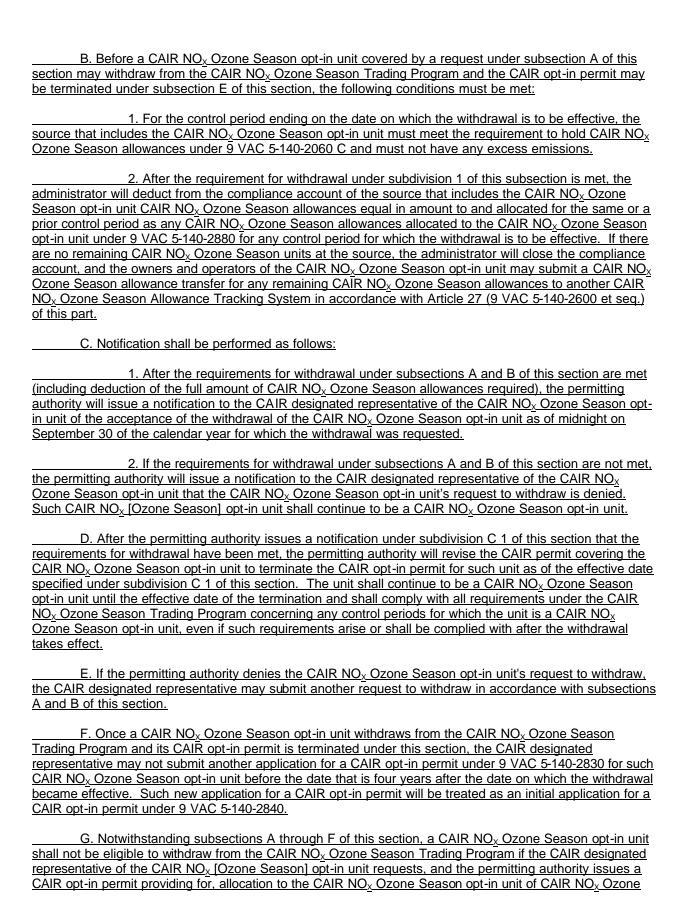
5-140-2820, if no CAIR designated representative has been previously designated for the source that includes the unit; and 5. A statement, in a format acceptable to the permitting authority, whether the CAIR designated representative requests that the unit be allocated CAIR NO_x Ozone Season allowances under 9 VAC 5-140-2880 [B or] C (subject to the conditions in 9 VAC 5-140-2840 H and 9 VAC 5-140-2860 G). [If allocation under 9 VAC 5-140-2880 C is requested, the statement shall include a statement that the owners and operators intend to repower the unit before January 1, 2015 and that they will provide, upon request, documentation demonstrating such intent.] B. Opt-in permit renewal shall be required as follows: 1. The CAIR designated representative of a CAIR NO_x Ozone Season opt-in unit shall submit a complete CAIR permit application under 9 VAC 5-140-2220 to renew the CAIR opt-in unit permit in accordance with the permitting authority's regulations for title V operating permits, or the permitting authority's regulations for state operating permits if applicable, addressing permit renewal. 2. Unless the permitting authority issues a notification of acceptance of withdrawal of the CAIR [NO_x Ozone Season] opt-in unit from the CAIR NO_x [Annual Ozone Season] Trading Program in accordance with 9 VAC 5-140-[1860 2860] or the unit becomes a CAIR NO_x [Ozone Season] unit under 9 VAC 5-140-2040, the CAIR NO_x [Ozone Season] opt-in unit shall remain subject to the requirements for a CAIR NO_x [Ozone Season] opt-in unit, even if the CAIR designated representative for the CAIR NO_x [Ozone Season] opt-in unit fails to submit a CAIR permit application that is required for renewal of the CAIR opt-in permit under subdivision 1 of this subsection. 9 VAC 5-140-2840. Opt-in process. The permitting authority will issue or deny a CAIR opt-in permit for a unit for which an initial application for a CAIR opt-in permit under 9 VAC 5-140-2830 is submitted in accordance with the following: A. The permitting authority and the administrator will determine, on an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a CAIR opt-in permit under 9 VAC 5-140-2830. A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that the NO_x emissions rate and heat input of the unit and all other applicable parameters are monitored and reported in accordance with Article 28 (9 VAC 5-140-2700 et seq.) of this part. A determination of sufficiency shall not be construed as acceptance or approval of the monitoring plan. B. Monitoring and reporting shall be as follows: 1.a. If the permitting authority and the administrator determine that the monitoring plan is sufficient under subsection A of this section, the owner or operator shall monitor and report the NO_x emissions rate and the heat input of the unit [emissions rate and the heat input of the unit] and all other applicable parameters, in accordance with Article 28 (9 VAC 5-140-2700 et seq.) of this part, starting on the date of certification of the appropriate monitoring systems under Article 28 (9 VAC 5-140-2700 et seq.) of this part and continuing until a CAIR opt-in permit is denied under subsection F of this section or, if a CAIR opt-in permit is issued, the date and time when the unit is withdrawn from the CAIR NO_x Ozone Season Trading Program in accordance with 9 VAC 5-140-2860. b. The monitoring and reporting under subdivision a of this subdivision shall include the entire control period immediately before the date on which the unit enters the CAIR NO_x Ozone Season Trading Program under subsection G of this section, during which period monitoring system availability shall not be less than 90.0% under Article 28 (9 VAC 5-140-2700 et seq.) of this part and the unit shall be in full compliance with any applicable state or federal emissions or emissions-related requirements. 2. To the extent the NO_x emissions rate and the heat input of the unit are monitored and reported in accordance with [subpart] Article 28 (9 VAC 5-140-2700 et seg.) of this part for one or more control periods, in addition to the control period under subdivision 1 b of this subsection, during which

emissions-related requirements and which control periods begin not more than three years before the unit enters the CAIR NO_x Ozone Season Trading Program under subsection G of this section, such information shall be used as provided in subsections C and D of this section. C. The unit's baseline heat [rate input] shall equal: 1. If the unit's NO_x emissions rate and heat input are monitored and reported for only one control period, in accordance with subdivision B 1 of this section, the unit's total heat input (in mmBtu) for the control period: or 2. If the unit's NO_x emissions rate and heat input are monitored and reported for more than one control period, in accordance with subdivisions B 1 and 2 of this section, the average of the amounts of the unit's total heat input (in mmBtu) for the control periods under subdivisions B 1 b and [B] 2 of this section. D. The unit's baseline NO_x emission rate shall equal: 1. If the unit's NO_x emissions rate and heat input are monitored and reported for only one control period, in accordance with subdivision B 1 of this section, the unit's NO_x emissions rate (in lb/mmBtu) for the control period; 2. If the unit's NO_x emissions rate and heat input are monitored and reported for more than one control period, in accordance with subdivisions B 1 and 2 of this section, and the unit does not have add-on NO_x emission controls during any such control periods, the average of the amounts of the unit's NO_x emissions rate (in lb/mmBtu) for the control periods under subdivisions B 1 b and [B] 2 of this section; or 3. If the unit's NO_x emissions rate and heat input are monitored and reported for more than one control period, in accordance with subdivisions B 1 and 2 of this section, and the unit has add-on NO_x emission controls during any such control periods, the average of the amounts of the unit's NO_x emissions rate (in lb/mmBtu) for such control periods during which the unit has add-on NO_x emission controls. E. After calculating the baseline heat input and the baseline NO_x emissions rate for the unit under subsections C and D of this section and if the permitting authority determines that the CAIR designated representative shows that the unit meets the requirements for a CAIR NO_x Ozone Season opt-in unit in 9 VAC 5-140-2800 and meets the elements certified in 9 VAC 5-140-2830 A 2, the permitting authority will issue a CAIR opt-in permit. The permitting authority will provide a copy of the CAIR opt-in permit to the administrator, who will then establish a compliance account for the source that includes the CAIR NOx Ozone Season opt-in unit unless the source already has a compliance account. F. Notwithstanding subsections A through E of this section, if at any time before issuance of a CAIR opt-in permit for the unit, the permitting authority determines that the CAIR designated representative fails to show that the unit meets the requirements for a CAIR NO_x Ozone Season opt-in unit in 9 VAC 5-140-2800 or meets the elements certified in 9 VAC 5-140-2830 A 2, the permitting authority will issue a denial of a CAIR opt-in permit for the unit. G. A unit for which an initial CAIR opt-in permit is issued by the permitting authority shall become a CAIR NO_x Ozone Season opt-in unit, and a CAIR NO_x Ozone Season unit, as of the later of May 1, 2009 or May 1 of the first control period during which such CAIR opt-in permit is issued. H. Repowered CAIR NO_x Ozone Season opt-in units shall meet the following requirements. 1. If the CAIR designated representative requests, and the permitting authority issues a CAIR opt-in permit providing for, allocation to a CAIR NO_x Ozone Season opt-in unit of CAIR NO_x Ozone Season allowances under 9 VAC 5-140-2880 C and such unit is repowered after its date of entry into the CAIR NO_x Ozone Season Trading Program under subsection G of this section, the repowered unit shall be

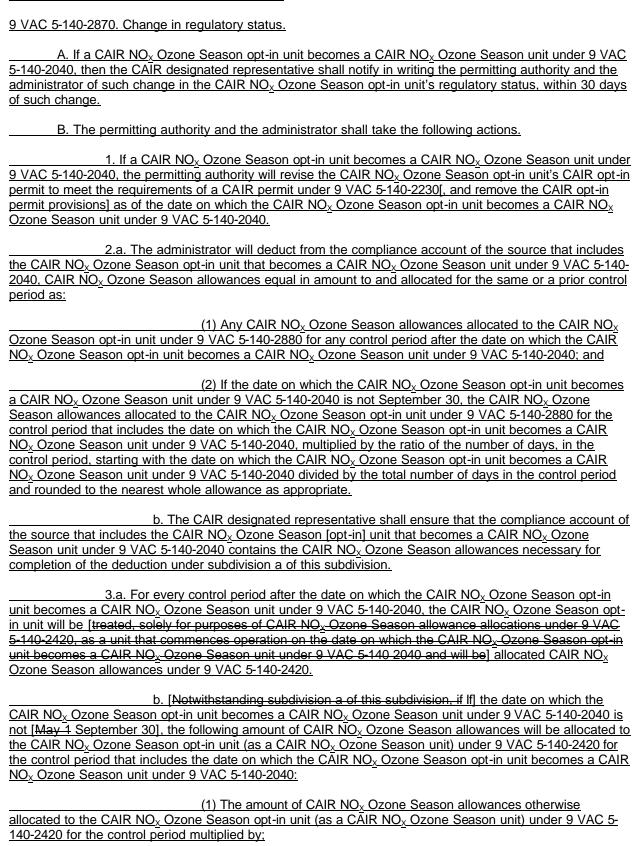
control periods monitoring system availability is not less than 90.0% under Article 28 (9 VAC 5-140-2700 et

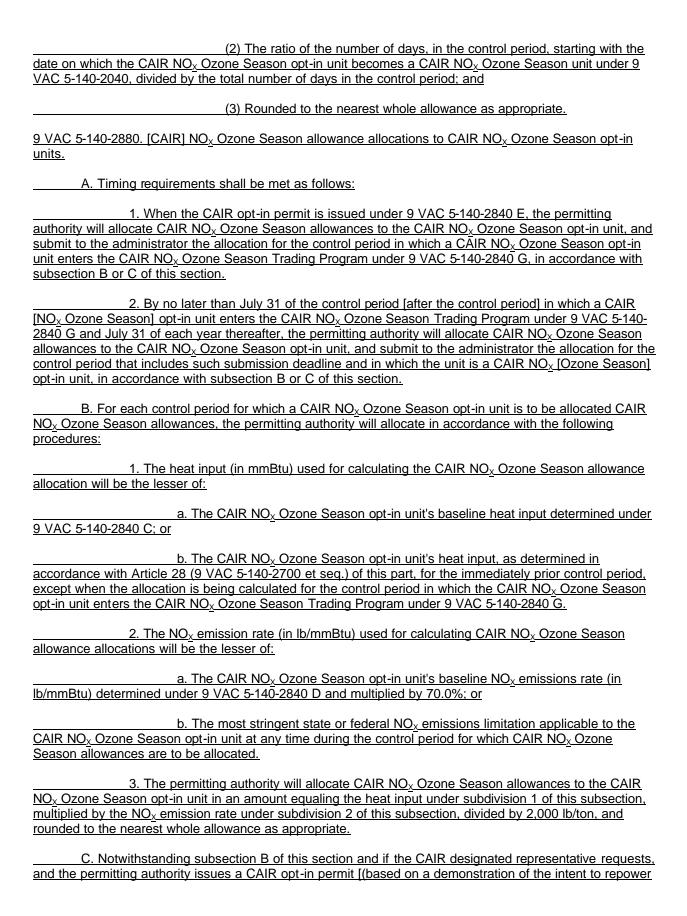
seq.) of this part and the unit is in full compliance with any applicable state or federal emissions or

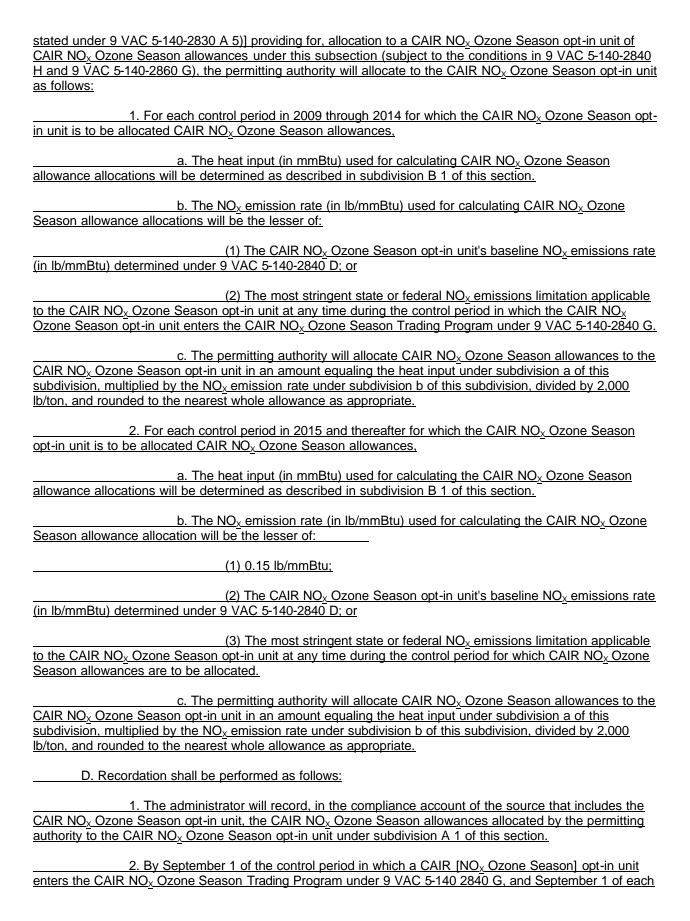
$\frac{\text{treated as a CAIR NO}_{\underline{x}} \text{ Ozone Season opt-in unit replacing the original CAIR NO}_{\underline{x}} \text{ Ozone Season opt-in unit, as of the date of start-up of the repowered unit's combustion chamber.}$
2. Notwithstanding subsections C and D of this section, as of the date of start-up under subdivision H 1 of this section, the repowered unit shall be deemed to have the same date of commencement of operation, date of commencement of commercial operation, baseline heat input, and baseline NO _x emission rate as the original CAIR NO _x Ozone Season opt-in unit, and the original CAIR NO _x Ozone Season opt-in unit shall no longer be treated as a CAIR [NO _x Ozone Season] opt-in unit or a CAIR NO _x Ozone Season unit.
9 VAC 5-140-2850. CAIR opt-in permit contents.
A. Each CAIR opt-in permit will contain:
1. All elements required for a complete CAIR permit application under 9 VAC 5-140-2220;
2. The certification in 9 VAC 5-140-2830 A 2;
3. The unit's baseline heat input under 9 VAC 5-140-2840 C;
4. The unit's baseline NO _x emission rate under 9 VAC 5-140-2840 D;
5. A statement whether the unit is to be allocated CAIR NO _x Ozone Season allowances under 9 VAC 5-140-2880 [B or] C (subject to the conditions in 9 VAC 5-140-2840 H and 9 VAC 5-140-2860 G);
6. A statement that the unit may withdraw from the CAIR NO _x Ozone Season Trading Program only in accordance with 9 VAC 5-140-2860; and
7. A statement that the unit is subject to, and the owners and operators of the unit shall comply with, the requirements of 9 VAC 5-140-2870.
B. Each CAIR opt-in permit is deemed to incorporate automatically the definitions of terms under 9 VAC 5-140-2020 and, upon recordation by the administrator under Article 26 (9 VAC 5-140-2500 et seq.)[, or] Article 27 (9 VAC 5-140-2600 et seq.)[, or Article 29 (9 VAC 5-140-2800 et seq.)] of this part or this article, every allocation, transfer, or deduction of CAIR NO _X Ozone Season allowances to or from the compliance account of the source that includes a CAIR NO _X Ozone Season opt-in unit covered by the CAIR opt-in permit.
C. The CAIR opt-in permit shall be included, in a format acceptable to the permitting authority, in the CAIR permit for the source where the CAIR $[NO_{\underline{x}} Ozone Season]$ opt-in unit is located [and in a title V operating permit or state operating permit for the source].
9 VAC 5-140-2860. Withdrawal from CAIR NO _x Ozone Season Trading Program.
Except as provided under subsection G of this section, a CAIR $NO_{\underline{x}}$ Ozone Season opt-in unit may withdraw from the CAIR $NO_{\underline{x}}$ Ozone Season Trading Program, but only if the permitting authority issues a notification to the CAIR designated representative of the CAIR $NO_{\underline{x}}$ Ozone Season opt-in unit of the acceptance of the withdrawal of the CAIR $NO_{\underline{x}}$ Ozone Season opt-in unit in accordance with subsection D of this section.
A. In order to withdraw a CAIR [NO _X Ozone Season] opt-in unit from the CAIR NO _X Ozone Season Trading Program, the CAIR designated representative of the CAIR NO _X Ozone Season opt-in unit shall submit to the permitting authority a request to withdraw effective as of midnight of September 30 of a specified calendar year, which date must be at least four years after September 30 of the year of entry into the CAIR NO _X Ozone Season Trading Program under 9 VAC 5-140-2840 G. The request shall be submitted no later than 90 days before the requested effective date of withdrawal.



Season allowances under 9 VAC 5-140-2880 C.







 $\frac{\text{year thereafter, the administrator will record, in the compliance account of the source that includes the CAIR}{NO_{\underline{x}} \text{ Ozone Season opt-in unit, the CAIR NO}_{\underline{x}} \text{ Ozone Season allowances allocated by the permitting authority to the CAIR NO}_{\underline{x}} \text{ Ozone Season opt-in unit under subdivision A 2 of this section.}}$